
Appeal Decision

Hearing Held on 15 and 16 November 2017

Site visit made on 16 November 2017

by L Gibbons BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 February 2018

Appeal Ref: APP/K3415/W/17/3178356

Land adjacent to The Crown Inn/East of Uttoxeter Road, Uttoxeter Road (A513), Handsacre, Staffordshire, WS15 4EA

- 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 F B Developments Premier Ltd and Associates against the decision of Lichfield District Council.
 - The application Ref 15/01336/OUTM, dated 19 November 2015, was refused by notice dated 20 December 2016.
 - The development proposed is outline application for the erection of up to 88 no. dwellings, commercial/community unit of 80 square metres allowing B1 or D1 use and associated works. All matters reserved, except means of access.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application seeks outline planning permission with access to be determined at this stage. Landscaping, layout, appearance and scale are reserved matters to be considered in the future. Although the application plans show a site plan, the appellant has indicated that this is for illustrative purposes. I shall determine the appeal on this basis.
3. For the sake of clarity I have used the name of the applicant as set out on the appeal form. I have used the description of development as set out on the Council's decision notice and in the agreed Statement of Common Ground.
4. The parties refer to the Local Plan Site Allocations document. The plan has been the subject of consultation. However, at the Hearing the Council confirmed that it is likely that further consultation will be undertaken. The Armitage with Handsacre Neighbourhood Plan has also been the subject of consultation but has not yet reached formal submission stage. Given the stage that the Site Allocations Plan and the Neighbourhood Plan have reached I give them little weight.
5. The proposal is accompanied by a copy of a signed Unilateral Undertaking (UU) under section 106 of the Town and Country Planning Act 1990 (as amended) dated 14 December 2017 in relation to contributions to primary education and a Traffic Regulation Order, and also affordable housing and open space provision. I return to this matter below.

Main Issues

6. Based on all I have seen and heard the main issues are:

- i) Whether the scheme would be contrary to the spatial strategy for the area with regard to the supply of housing land and the consequent local and national policy implications;
- ii) The effect of the proposal on the character of the landscape; and,
- iii) The effect of the proposal on the Trent and Mersey Canal Conservation Area, and on the setting of the nearby listed building of Marsh Barn Farmhouse.

Reasons

Spatial Strategy and Housing Land Supply

Housing Land Supply

- 7. Paragraph 49 of the National Planning Policy Framework (the Framework) states that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.
- 8. The housing requirement for the District is set out within the Lichfield Local Plan Strategy (LPS) 2015. I accept that in terms of the overall housing requirement there is an acknowledgement that the Greater Birmingham Housing Market Area which includes the District has unmet housing need. However, it is not within the scope of this appeal to replicate the process of establishing the overall housing requirement and I must reach a conclusion based on the evidence before me.
- 9. Joint working involving the Council is seeking to establish the precise quantity and potential distribution of this unmet need. A mechanism for the review of meeting potential need is included within the LPS. No alternative figure to that contained within the LPS was suggested by the appellants. The LPS was recently adopted, and I consider the housing requirement within it is up to date. It is an appropriate basis for calculating the five year supply of housing land.
- 10. In February 2017 the Secretary of State for Communities and Local Government issued three recovered appeals decisions within the District¹. The conclusion for those was that there was a 5.11 years supply of housing land within the District. The Council consider that there is currently a five year supply of housing land of 5.77 years based on an updated housing land supply position in August 2017. The appellants consider that the position is 4.83 years.
- 11. The parties agree on the approach to addressing shortfall from past under delivery and a 20% buffer. However, the appellants dispute the amount and timescales for delivery at five of the sites delivering over 50 dwellings. These are located within three of the Strategic Development Areas (SDA)² and a site at Handsacre. I acknowledge that the appellants have contacted those with an

¹ APP/K3415/W/16/3153006; APP/K3415/W/15/3024063 and APP/K3415/W/14/2225799

² East of Lichfield SDA (Streethay); South of Lichfield SDA (Short Butts Lane and Cricket Lane); Fradley SDA and Spode Avenue, Handsacre

interest in the sites to discuss delivery rates. However, from the information provided by the Council, including letters from agents and others involved in the sites confirming timescales and amount, I am satisfied that the Council's approach to these sites in terms of delivery is realistic at this point in time. Based on the evidence before me, I conclude that the Council are able to demonstrate a five year supply of housing land at the level indicated by the Council.

Spatial Strategy

12. Given that I have found the Council can demonstrate a five year supply of housing land paragraph 49 of the Framework is not engaged. Armitage with Handsacre is a Key Rural Settlement as set out in Core Policy 1 of the LPS. These are identified as areas to where new rural housing will be directed, and the overall amount to be achieved at these settlements is clarified in Core Policy 6 of the LPS. Policy Arm4 of the LPS sets out that housing delivery for the settlement will be a range between 120 and 220 with final numbers and locations determined through the emerging Allocations document. A range of homes is expected to be delivered. Nevertheless, the thrust of the Framework to boost significantly the supply of housing is a significant consideration.
13. The appellants suggest that the reference in Policy Arm4 to modest and proportionate level of growth relates only to small-scale development within the village, and not additional sites outside of the boundary. However, the Armitage with Handsacre vision set out within the LPS clearly indicates that it will accommodate a proportionate scale of growth that helps to deliver an enhanced village environment. The Council refer to completions and committed development at the settlement as being met and exceeded by over 60 dwellings. The appeal scheme would result in a considerable excess over the top end of the range of 220 and a resulting increase in population growth above that envisaged by the LPS. Significant growth above the top end of the range would be disproportionate to the settlement and contrary to the aim of achieving proportionate growth.
14. Policy Arm4 refers to *'maintaining a self-contained community with clear physical boundaries and which complements and enhances the character of the existing settlement and which does not further elongate its physical form'*. The LPS acknowledges that there may be a need to include sites outside the settlement boundary. However, the proposal would be to the north of the Trent and Mersey Canal. The Canal which is described in the LPS as effectively forming a northern limit to the village, and which is important to the village identity and character. The River Trent floodplain which is close by also reinforces the existing pattern of development.
15. With the exception of isolated buildings the majority of residential development in the village is to the south with the village also extending to the east and west. The LPS acknowledges this historical pattern of growth has resulted in a lack of a focal point for the village. I acknowledge that there has been some more recent development to the south of the village but this would accord with the general thrust of maintaining the northern boundary of the settlement. Even with the provision of a business or commercial unit there would be an elongation of the village towards the north pulling the village in an additional direction. The scheme would breach the boundary of the Canal. The proposal would be at odds with Policy Arm4 which seeks development which does not

further elongate the village's physical form. I consider that landscaping or a treed boundary to the north side of the scheme would not provide such a clear physical boundary as the Canal and it would be one that would have the potential to be removed.

16. I conclude that the scheme would not be in accordance with the spatial strategy for the District including the provision of housing at Armitage with Handsacre. It would be in conflict with Core Policy 1 and Policy Arm4 of the LPS.

Landscape

17. The appeal site is located within the valley of the River Trent which is a little distance to the north. The land rises within the appeal site from the north to the south. The site is within the Needwood and South Derbyshire Claylands National Character Area and within the Trent Valley Washlands Regional Area 69, and the Terrace Alluvial Lowlands Landscape Character Type. Apart from the rise of land to the south towards the Canal the landscape is relatively flat with large fields except closer to villages where smaller fields can be found. The appeal site is reasonably typical of the landscape character with three fields used for pasture, and some hedgerows.
18. I acknowledge that the site is not located within a landscape designated at either local or national level. The site is not very visible in the much wider landscape. A number of electricity pylons nearby have a presence in some views of the site and its surroundings. However, these are seen in the context of a rural landscape and do not lead to a particularly urbanising effect in or around the appeal site. Although the site contains horse pasture this does not have a significant impact on the general rural character of the appeal site.
19. A number of key viewpoints were agreed between the parties. The development would not be visible from some of these points particularly looking from the west and north at a distance. The west boundary is a dense hedgerow which is unmanaged at present and only glimpses of the site can be seen though this even in winter. Parts of the site are also only seen in glimpses from the Canal towpath but gaps in vegetation do present some views of the fields. The site is very visible from the footpath to the east of the appeal site which runs across an adjacent field, and also from the bridge particularly for pedestrians crossing the bridge to access the Canal towpath. Although there is development along the Canal the north side has a strongly rural character.
20. The proposed scheme would be clearly visible from a number of locations close to the appeal site. This includes along the Canal towpath, bridge and the public house even with a buffer between the development and the Canal. The proposed access road would open up the site from the west and a number of the properties and hardstanding would be visible. Even with landscaping in place including on the eastern edge of the site due to the numbers of homes and the spread across the majority of the site, the proposal would have a significantly urbanising effect on the rural character of the area. The scheme would represent a very significant and negative change in views for those people using the public footpath and towpath both of which are reasonably well used. Overall, it would not reinforce the rural appearance of the land to the north of the village.

21. For the reasons given above I conclude that the proposed development would cause harm to the landscape character of the area. It would be in conflict with Core Policy 1 and Policy Arm4 of the LPS. It would be contrary to the provisions of the Framework in respect of taking account of the different roles and character of different areas and recognising the intrinsic character and beauty of the countryside.

Listed building and Conservation Area

22. The appeal site is located between the Trent and Mersey Canal Conservation Area and the grade II listed building of Marsh Barn Farmhouse.

Trent and Mersey Canal Conservation Area

23. The Trent and Mersey Canal runs for a significant length through a number of local authorities. The Canal was completed in 1777 and brought rapid industrial development to the area served by the Canal. The design of the Canal and its bridges and locks were not specifically designed to be pleasing to the eye although the architecture of canals is now an established part of the landscape. Overall it is within a varied landscape including industrial, urban and rural stretches although much less than half is urban and industrial. The proportion of the Canal running through the District is small. Within the District the Canal does have some built up features including Armitage with Handsacre although the majority of it is within open countryside. The Framework defines heritage significance as being archaeological, architectural, artistic and historic. Therefore I consider that the significance of the Trent and Mersey Canal lies in its historic and architectural interest.
24. The appellants refer to the special interest of the Canal as not being dependent upon its interaction or interrelationship with the management of the adjoining landscape. I do not agree as the Canal followed the contours of the landscape in order to minimise construction costs and difficulties, and this includes following a relatively meandering route through rural areas. This is evident even within the small section of the Canal at Armitage with Handsacre where the line of the Canal is not straight. To my mind this forms part of its historic interest. Whilst the fields of the appeal site are not special in character or archaeology terms themselves, in respect of their inclusion in the rural setting and how the Canal is experienced in this location I consider they positively contribute to its significance.
25. A number of houses within the scheme would be prominent in the glimpsed views from the towpath. This is due to the position of the houses on land above the height of the towpath, and there would be development fairly close to the entrance to the Canal from the bridge. The visual experience of pedestrians crossing the bridge would be negatively altered with a considerable amount of developed area visible beyond the Canal. The proposed buffer on the south of the scheme would not be particularly wide and would take some time to mature. Due to the height of the bridge relative to the appeal site the buffer would not mitigate this effect as the upper floors and roofs of the development would remain visible. The Canal would be seen as passing through a significantly more suburban area than is currently the case.
26. I accept that the development to the south is very visible when travelling along the towpath, and includes some recent completions. However, this is confined to the other side of the Canal and appears consistent with the development of

the village to the south of the Canal. The quality of the experience walking along the towpath and is still heavily influenced by the rural character of the north side of the Canal, as this is where the path is located. To my mind development on the south side of the Canal is not justification for additional change that would compromise the Canal's setting. The appeal scheme would have a considerably negative impact with regard to the District's stretch of the Conservation Area taking into account its mainly rural location within the landscape. When considered in the context of the Conservation Area as a whole this harm would be reduced somewhat due to the overall length of the Canal.

Marsh Barn Farmhouse

27. The listing of Marsh Barn Farmhouse describes a number of architectural features. The Heritage Statement which accompanied the planning application refers to the name of the farmhouse, and that the wetland bordering the drive provides a clue as to the original surroundings and its link to the surrounding landscape. Its special interest is architectural and historic. The current main entrance to the farmhouse is on the north elevation, and there have been some recent additions and changes to the building which have a limited effect on how the building is perceived today. However, although possibly plain in comparison with other farmhouses within the area the design of the farmhouse was such that the southern elevation and garden were meant to be a front entrance, and seen as such by visitors to the farm. In this way, the building would not have been inward looking, and its relationship with the surrounding farmland including to the south and the appeal site would have been appreciated.
28. The farmhouse has former farm buildings close by that have been converted to residential properties. The relationship has changed somewhat in response to this, and I accept that there is no longer a functional relationship between the farm, buildings and the farm land. Nevertheless, the setting includes the surroundings in which it is experienced, and the appeal site can still be seen in glimpses through the vegetation on the southern boundaries of the site close to the farmhouse. Even with the planting of trees and formal vegetation along the drive and buildings there are still sufficient views of the village across the appeal site to retain an understanding of the farm and its buildings as being isolated from the village. Taking the above factors into account, I consider that the appeal site makes a moderate contribution to the setting of Marsh Barn Farmhouse and its associated buildings.
29. The scheme would form a significantly more developed backdrop when looking out from the farmhouse towards the south particularly as the land rises and houses would be highly visible on the slope. Landscaped areas on the southern boundary of the proposed development would provide some limited mitigation. However, views of the development would still be possible with built form much closer to the farmhouse than the village. In addition, much of the development on the eastern side would be prominent in views from the footpath to the east. This is in part due to the nature of the slope towards the Canal which would increase the prominence of the development. Although the farm is only just visible from the footpath to the east it is still possible to identify the separation of the farmhouse from the settlement. The scheme would not maintain the sense of the farmhouse being in a rural and isolated location as critically it would extend built development towards it. Having regard to its former

agricultural function, historic interest and relative isolation from the settlement I consider the proposed development would cause harm to the significance of the listed building.

30. The appellant refers to a terrace of cottages which had been on the appeal site located towards the Canal. However, although shown on historical maps they were removed some time ago and there are no visible structural remains. They were located some distance away from the farmhouse. They would not be sufficient reason to justify the scheme before me.
31. The appellant refers to Core Policy 14 as being inconsistent with the Framework in relation the consideration of heritage assets and also that setting is not a heritage asset and should not be considered in the same way. Nevertheless, the Policy was produced after the Framework, and has also recently been considered through an Examination. To my mind it is consistent with the Framework which indicates that local planning authorities should set out a positive strategy for the conservation and enjoyment of the historic environment. The Council has also weighed the public benefits in the consideration of the scheme. I have given Core Policy 14 full weight in my determination of this appeal.

Conclusions on heritage

32. For the reasons given above I conclude that the proposed development would fail to preserve the setting of the listed Marsh Barn Farmhouse, and would cause harm to the Trent and Mersey Canal Conservation Area. It would be in conflict with Core Policies 1, 13 and 14 and Policy BE1 of the LPS. It would be contrary to the Framework in respect of protecting and enhancing the built and historic environment.
33. When the proposed development is considered in the context of harm to the significance of the listed building the harm would be less than substantial. Nevertheless, special regard needs to be had to the desirability of preserving the setting of the listed building in accordance with Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Other considerations

34. The appellant refers to a lack of consistency in the Council's decision making with regard to the village. In particular the approval of a housing development at land adjacent to the Hayes Meadow Primary School, and approved applications for a marina with ancillary buildings at the appeal site.
35. In respect of Hayes Meadow that site is located to the south of the Canal which is a significant difference to the appeal scheme. Considerations in that case also included the Conservation Area and the setting of listed buildings. In that case, the Council came to different conclusions on these matters. I also note that planning permission was granted before the information on commitments and completions was available in relation to growth at the settlement.
36. The development of the marina was not undertaken. I note that there would have been a building on the site and some physical changes to the fields would have been necessary. However, this would not have been at the same scale of built form as the appeal scheme even taking account of features such as car parking. The marina would have also related to the use of the Canal as a leisure resource. Neither of these matters would lead me to alter my findings

above in respect of the proposal which I have considered on its substantive planning merits.

Other matters

37. The UU obligations relating to education, the Traffic Regulation Order and public open space would offset the impact of the development on services and infrastructure within the area. However, I consider these would be neutral considerations in the planning balance. As I am dismissing the appeal for other reasons I do not need to consider whether each of these obligations meet the statutory tests contained in Regulation 122 of the Community Infrastructure Levy Regulations (CIL) 2010.
38. The UU also makes provision for 37% affordable housing. This would be a positive benefit of the scheme. I am satisfied that the affordable housing provisions including the proposed tenure split are 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. The affordable housing provision meets the tests in the Framework, and I have taken it into account in coming to my decision.
39. I have had regard to a number of appeal decisions and High Court Judgements referred to by the parties including some in relation to consideration of setting and substantial and less than substantial harm to heritage assets. However, apart from the three appeal decisions in relation to housing land supply, I have not specifically referred to any other decisions here. I have determined the appeal on the basis of the evidence presented to me and on its own merits.

Conclusion and balance

40. The Framework requires that less than substantial harm to the significance of heritage assets be assessed against any public benefit the development may bring. The contribution towards market and affordable housing, and the inclusion of a commercial unit within the scheme would be public benefits. However, even considered collectively these would not outweigh the harm to the setting of the listed building.
41. I have found that the Council are able to demonstrate a five year supply of housing land. The proposal would be contrary to the spatial strategy of the LPS and although there would be some weight towards the provision of affordable housing in particular, there is no justification for departing from the strategy. Moreover, the scheme would compromise the overall character of the village with harm caused to the landscape character of the area. In addition, there would be a negative impact on the Trent and Mersey Canal Conservation Area and it would fail to preserve the setting of Marsh Barn Farmhouse.
42. For the above reasons and having regard to all other matters raised, I conclude that the appeal should be dismissed.

L Gibbons

INSPECTOR

APPEARANCES

FOR THE APPELLANTS

A Minshall	Appellant
FB Developments Premier Ltd	Appellants
R Brown	CBRE
A Crutchley	The Environmental Dimension Partnership Ltd
F McKenzie	The Environmental Dimension Partnership Ltd
M Lapworth	Lapworth Architects

FOR THE LOCAL PLANNING AUTHORITY

S Wood	Urban Vision on behalf of Lichfield District Council
P Jervis	Lichfield District Council
C Hines	Lichfield District Council
P Coe	Urban Vision on behalf of Lichfield District Council

INTERESTED PERSONS

R Cox	Ward Councillor, Lichfield District Council
E Gee	
T Marshall	Ward Councillor, Lichfield District Council
G Stockdale	

DOCUMENTS AND PLANS SUBMITTED AT THE HEARING

- 1 Statement of Common Ground, November 2017
- 2 Heritage Statement by P Heath accompanying outline planning application
- 3 Photoviewpoints EDP1-EDP19 dated 13 November 2017
- 4 Drawings (Site Context, Location Plan, Masterplan) for Tuppenhurst Lane, Handsacre
- 5 R (on the application of Graham Williams) v Powys County Council; Colin Bagley [2017] EWCA 427 (Civ)
- 6 Notification of appeal and a list of those persons notified dated 18 August 2017
- 7 Report on the Examination into the Lichfield Local Plan: Strategy January 2015
- 8 Aerial photograph of Armitage with Handsacre
- 9 AO Topography Survey

10 AO Topography Survey

11 Letter from JVH Town Planning Consultants Ltd dated 20 September 2017 (Development at Tuppenhurst Lane, Handsacre)

12 Publication Response from Pegasus on behalf of Miller Homes Ltd (Land at Streethay Phase 2)

13 Publication Response from Pegasus on behalf of Persimmon Homes (South of Lichfield SDA)

14 Publication Response from Pegasus on behalf of Persimmon Homes and St Modwen Ltd (Cricket Lane SDA)

15 Access and Visibility Plan drawing P1031/213

16 Draft Unilateral Undertaking

17 Site visit map with viewpoints

18 Conditions (dated 15 November 2017)

19 Unilateral Undertaking dated 14 December 2017 (after the close of the hearing)

Richborough Estates