



Appeal Decision

Hearing held on 27 March 2013

Site visit made on 27 March 2013

by P N Jarratt BA(Hons) Dip TP MRTPI

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

Decision date: 11 April 2013

Appeal Ref: APP/C3430/A/12/2189442

Land off Elmwood Avenue, Essington, WV11 2DH

- 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 Bellway Homes West Midlands against the decision of South Staffordshire Council.
 - The application Ref 11/00929/FUL, dated 23 November 2011, was refused by notice dated 15 June 2012.
 - The development proposed is residential development comprising the erection of 28 dwellings and garages with associated roads, drainage, landscaping and other accommodation works.
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Decision

1. The appeal is allowed and planning permission is granted for residential development comprising the erection of 28 dwellings and garages with associated roads, drainage, landscaping and other accommodation works at Land off Elmwood Avenue, Essington, WV11 2DH in accordance with the terms of the application, Ref 11/00929/FUL, dated 23 November 2011 and the plans submitted with it, subject to the conditions listed in the Conditions Schedule.

Procedural Matters

2. The second reason for refusal relating to the housing mix of the proposed development was withdrawn by the Council prior to the hearing and consequently forms no part of this decision.
3. A planning obligation in the form of an agreement was submitted at the hearing. Its provisions concern affordable housing and open space.

Main Issues

4. The main issues in this appeal are:
 - i) Whether the proposed development would be premature having regard to the preparation of the Site Allocations DPD such that it would prejudice the plan making process; and,
 - ii) Whether there is a 5 year supply of specific deliverable housing sites.

Reasons

5. The appeal site of 1.22 ha is in open countryside adjoining the built up boundary of Essington, identified as a Local Service Village in the South Staffordshire Local Plan Core Strategy (CS), adopted in December 2012. It forms part of a larger area of Safeguarded Land which was removed from the Green Belt in an earlier local plan. The M6/M54 motorway junction is located beyond the site to the north.

Prematurity

6. The Government document *The Planning System: General Principles*¹ sets out the approach to questions of prematurity. It explains at paragraph 17 that it may be justifiable to refuse planning permission on the ground of prematurity where a DPD is being prepared if a proposal is so substantial or the cumulative effect would be so significant that granting permission would pre-determine decisions about the scale, location or phasing of new development. Paragraph 18 states that otherwise refusal of planning permission on the grounds of prematurity will not usually be justified. An example of this is where a DPD is at consultation stage with no early prospect of submission for examination and refusal on prematurity grounds would impose a delay in determining the future use of the land in question².
7. Further guidance on the issue of prematurity is provided in the National Planning Policy Framework (the Framework) at paragraph 216 which regulates the weight to be given to emerging plans.
8. Policy CP6 of the CS deals with housing land supply and distribution over the plan period. Essington is one of 4 settlements identified in 'Locality Area 3 – North Eastern Area' where provision is made for a minimum of 23 dwellings in Essington. However Policy CP6 is currently the subject of a legal challenge relating to the housing numbers for the village of Great Wyreley which is in the same locality area as Essington.
9. As a consequence of the challenge the Council is not confident that the housing numbers can be considered as definitive and is unable to confirm a programme for the preparation of the Site Allocations DPD. The Council hopes that the Site Allocations Issues and Options documents for the 5 locality areas would be available for public consultation as soon as possible after the judgement, with the DPD being published in late 2014, submission in March 2015 and adoption in late 2015 or early 2016.
10. As there are no sites within the development boundary of Essington that could accommodate the full housing allocation, the Safeguarded Land would be the preferable option applying the sequential test. The appeal site forms part of a a more substantial area of Safeguarded Land with the adjacent larger area accessed via Hobnock Road. This larger site has been promoted for housing by First City Ltd and has been the subject of local consultation for about 65 dwellings together with a number of community benefits such as allotments and playing fields.
11. The Site Allocations DPD and engagement with the local community would determine which site would be the most appropriate site for future housing development in Essington. However, on the basis of First City's masterplan

¹ ODPM 2005

² The issue of prematurity was considered in *Tewkesbury BC v SoS and others* [2013] EWHC 286 (Admin) submitted as Document 3 by the appellant

for the larger site³, the appeal site would be surrounded by existing or proposed residential development, except for a tree belt to the east, and be severed from a wider area of agricultural land. The logical residential extension of Essington would be the development of the appeal site, all other things being equal. It would be inevitable that there would be pressure for the development of the appeal site in the future if the First City scheme were to be developed prior to the appeal site.

12. Although housing numbers for the various settlements in Policy CP6 are indicated to be minimum figures, and I note that the Council does not have an issue with the 28 dwellings proposed for the appeal site compared to the 23 referred to in the policy, at some point the scale of development proposed could be of such significance that it would jeopardise the strategic objectives of the CS. However, as an exception, Policy CP6 provides for additional housing development beyond the identified supply that contributes to the delivery of local community infrastructure, where there is a proven need for community facilities and where such housing proposals are supported by local communities.
13. Although the Council has drawn my attention to a Secretary of State decision to dismiss an appeal at Armthorpe, Doncaster⁴ on the grounds of prematurity, that decision can be distinguished from the current appeal through its scale, as it related to an outline application for about 500 dwellings, and that the indicative phasing in the CS did not envisage any allocations before 2016.
14. Policy GB2 indicates that existing Safeguarded Land will be considered for future development in the Site Allocations DPD but that planning applications for permanent development prior to allocation in the Local Plan would be regarded as a departure. Consequently the proposed development would represent a departure from the CS. However against this must be weighed the current government advice on prematurity. The proposed scheme is not that substantial in the context of the overall housing supply figures for the District that it would pre-determine decisions about the scale, location or phasing of new development, particularly in the light of the approach to housing supply in Policy CS6 which supports schemes, as an exception, offering community benefits. Furthermore, the Site Allocations DPD has not even reached the consultation stage albeit that the delay in the programme is not of the Council's own making. It would be some considerable time before the DPD could be adopted. Accordingly, although the proposal would be premature in advance of the preparation of the Site Allocations DPD, I do not consider that it would seriously prejudice the plan making process in view of the anticipated programme for the preparation of the DPD and in the light of paragraph 216 of the Framework.

Five Year Housing Land Supply

15. The Council has a robust 5 year housing supply and has applied the 5% buffer in accordance with paragraph 47 of the Framework as it has consistently exceeded its housing targets since 2006. It currently has a 6.43 year housing supply. However, the appellant considers it questionable whether the Council can maintain a 5 year supply and argues that if overbuild is removed from the calculation and an annualised supply is

³ Appendix D of Mr Williams' statement

⁴ APP/F4410/A/12/2169858

considered, then there would be slightly less than a 5 year plus 5% housing supply.

16. The Council's housing supply figures have been tested through the examination of the CS and have found to be robust. Although the supply has reduced from the 7.42 years to 6.43 years, I am satisfied that this meets the requirements of the Framework at paragraph 47.
17. The presumption in favour of sustainable development in the Framework is not reliant on the lack of a 5 year supply of housing land and I note that the Inspector of a recent appeal at the former Baggeridge Brickworks accepted that there were sustainable development arguments supporting the proposed scheme despite the robust housing land supply figures⁵.

Other Considerations

18. A number of residents of houses within the proximity of the appeal site have raised a range of issues relating to the adverse affect that the development would have on their living conditions through the loss of light or the effect of increased traffic. However, the layout of the housing development and the separation distances involved are such that living conditions would not be significantly affected. Some of the traffic issues are related to the school on Hobnook Road and are not directly related to the site. The highway authority has not raised any objection to the scheme.

Planning Obligation

19. The planning obligation would require the sum of £300,000 towards the cost of providing affordable housing in the locality in accordance with the requirements of Policy EQ13 on developer contributions, Policy H2 of the CS and interim advice to landowners/developers on the implementation of affordable housing policy dated March 2006. The level of contribution is based on 30% provision of affordable housing amounting to 4 shared equity homes (at £50,000 each) and 4 social rented (at £25,000 each). Although provision of affordable housing would usually be met on site, a recent affordable scheme elsewhere in Essington allows the proposed scheme to contribute to the provision of affordable housing to be sited elsewhere in the District and I note that this off-site approach was recognised by CS Inspector.
20. The obligation also requires the payment of a sum of £25,000 towards the costs of providing, expanding or improving recreation facilities, including allotments, within the parish of Essington. This is based on the requirements of Policy EQ13 and on local knowledge of the costs involved.
21. I consider that the provisions of the planning obligation are necessary to make the proposal acceptable in planning terms, are directly related to the proposed development and fairly and reasonably related in scale and kind to the development. Consequently they satisfy Regulation 122 of the Community Infrastructure Levy Regulations and paragraph 204 of the Framework.

Conditions

22. I have considered the conditions suggested by the Council in the light of Circular 11/95 and I have modified them where necessary to ensure that they meet the tests in the Circular. Condition 2 defines the permission in the

⁵ APP/C3430/A/12/2177370

interests of proper planning, Conditions 3, 4 and 5 are necessary in the interests of highway safety. Condition 6 will ensure the satisfactory drainage of the site would be achieved. Condition 7 requires the submission of a landscaping scheme and maintenance schedule and this is necessary in the interests of the visual amenities of the area.

Conclusion

23. For the reasons given above I conclude that the proposed development would represent sustainable development and the appeal should be allowed.

P N Jarratt

Inspector

Richborough Estates

Conditions Schedule

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:

1100-3-Rev E - Proposed Site Layout

1100-23-Rev C Street Scenes 1

1100-24-Rev C Street Scenes 2

BUN/WKDG/1100/06/02 (Bungalow Plot 17)

BUN/WKDG/1100/07/02-Rev A (Bungalow Plot 1)

BUX/WKDG/1100/08/02 (Buxton Plot 22)

LEA/WKDG/1100/09/02-Rev A (Leamington Plots 4 and 6)

LEA/WKDG/1100/10/02 (Leamington Plot 10)

ORT/WKDG/1100/12/02-Rev B (Orton Plot 27)

ORT/WKDG/1100/13/02-Rev B (Orton Plots 20 and 28)

ORT/WKDG/1100/14/02 (Orton Plots 3 and 14)

ORT/WKDG/1100/15/02 (Orton Plots 7, 8, 11 and 16)

SPI/WKDG/1100/16/02 (Spinney Plot 5)

SPI/WKDG/1100/17/02 (Spinney Plots 9 and 18)

SPI/WKDG/1100/18/02 (Spinney Plot 15)

STA/WKDG/1100/19/02 (Stafford Plots 2, 12, 13 and 19)

BUN/WKDG/1100/20/02 (Bungalow Plot 21)

BER/WKDG/1100/27/02 (Beresford Plot 23)

BER/WKDG/1100/28/02 (Beresford Plot 26)

ALV/WKDG/1100/29/02 (Alveston Plot 24 and 25)

BUN/WKDG/1100/21/02 (Single Garage)

BUN/WKDG/1100/22/02 (Double Garage)

1100-25-Rev A (Enclosures Layout)

BRK 01 (1.8m Screen Wall)

BRK 02 (0.9m Wall)

RLG 01 (1.8m Weldmesh Fence)

TBR 01 (1.8m Close Boarded Fence)

TBR 02 (1.5m Panel Fence)

TBR 03 (1.8m Close Boarded Fence and Trellis)

TBR 04 (0.9m Post and Rail Fence)

TBR 05 (1.8m Privacy Fence)

TBR 06 (1.2m Post and Wire Fence)

Materials Layout/Schedule (1100-26-Rev A)

- 3) Development shall not begin until details of the road construction, street lighting and drainage, together with details of the proposed surfacing of the private accesses, parking and turning areas, have been submitted and approved in writing by the local planning authority. These shall be constructed in accordance with the approved details and retained thereafter.
- 4) Where a private access falls toward the public highway a surface water drainage interceptor, connected to a surface water outfall, shall be provided across the access immediately to the rear of the highway boundary unless otherwise agreed in writing by the Local Planning Authority.
- 5) The development hereby permitted shall not be commenced until parking for site operatives and visitors vehicles has been provided within the application site in accordance with details to be first submitted to, and approved in writing by, the Local Planning Authority which shall thereafter be provided in accordance with the approved details and retained unobstructed during the construction of the development.
- 6) The proposed development shall not begin until a scheme for the provision, implementation, ownership and maintenance of the surface water drainage for the site, based on sustainable drainage principles and in accordance with an approved Flood Risk Assessment has been submitted and approved in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details before the development is occupied and shall be retained thereafter.
- 7) Before the development commences a landscaping scheme, which shall include a schedule of landscape maintenance, shall be submitted to the local planning authority for approval in writing. The approved scheme shall be implemented concurrently with the development and completed within 12 months of the completion of the development. Any failures shall be replaced within the next available planting season with others of a similar size and species unless the local planning authority gives written approval to any variation.

APPEARANCES

FOR THE APPELLANT:

Andrew Williams Dip TP MRTPI	Advance Land and Planning Ltd
Fergus Thomas	Bellway Homes Ltd

FOR THE LOCAL PLANNING AUTHORITY:

Natalie Wise-Ford	Development Management Officer
Tom Cannon BA Hons Dip TCP	Team Leader, Applications & Appeals
Karen Richards	Local Plans Officer

INTERESTED PERSONS:

Cllr Bob Firmstone

DOCUMENTS

- 1 South Staffordshire Local Plan Inset Plan 13
- 2 Email dated 20 February 2013 from First City Ltd
- 3 Tewkesbury BC v SoS and others [2013] EWHC 286 (Admin)
- 4 Completed Planning Obligation dated 26 March 2013
- 5 Interim Advice on Implementation of Affordable Housing Policy
March 2006
- 6 Core Strategy Policy EQ13