



Appeal Decision

Site visit made on 24 November 2014

by Joanne Jones BSc(Hons) MA MRTPI

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

Decision date: 23 January 2015

Appeal Ref: APP/J3720/A/14/2215940

The Willows, Long Marston Road, Welford on Avon, Stratford-upon-Avon CV37 8EG

- 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 Mr Doug Glassford against the decision of Stratford on Avon District Council.
 - The application Ref 13/02520/FUL, dated 27 September 2013, was refused by notice dated 24 January 2014.
 - The development proposed is described as the 'development of land to the rear of 'The Willows' with 14 dwellings including affordable housing and demolition and replacement of dwelling known as 'Sunrays' with new access to Long Marston Road'.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing property 'Sunrays' and erection of 15 dwellings (net increase of 14 dwellings on site) including affordable housing, creation of new access, landscaping and associated works at The Willows, Long Marston Road, Welford on Avon, Stratford-upon-Avon CV37 8EG in accordance with the terms of the application, Ref 13/02520/FUL, dated 27 September 2013, and the plans submitted with it, subject to conditions attached in the annex to this decision.

Application for costs

2. An application for costs was made by Mr Doug Glassford against Stratford-on-Avon District Council. This application is the subject of a separate Decision.

Procedural Matters

3. Although the planning application was made in the terms given in the heading to this decision, this was changed by the Council to 'demolition of existing property 'Sunrays' and erection of 15 dwellings (net increase of 14 dwellings on site) including affordable housing, creation of new access, landscaping and associated works'. The appellant has used this description upon the appeal submissions and for clarity I have used this in my decision.
4. The Council advises that since the refusal of planning permission it has published Information Sheet No: XX/2014, dated 25 November 2014, which states that the Council are now able to demonstrate a 5.8 year land supply. The appellant is aware of, and has had the opportunity to comment on, this latest position and is not therefore prejudiced by my consideration of it. It is

incumbent on me to take into account the most relevant and up to date information in reaching a decision and I have therefore dealt with the appeal on this basis.

Main Issue

5. The main issue in this case is whether the development proposed would be consistent with the principles of sustainable development having regard to the National Planning Policy Framework (the Framework) and the development plan, with particular reference to the character and appearance of the area.

Reasons

Policy background

6. The development plan for the area comprises the saved policies of the Stratford-on-Avon District Local Plan Review 1996-2011 (July 2006) (the Local Plan). Saved Policies PR.1 and DEV.1 are the main policies of relevance in considering the potential effect of development on the character and appearance of the area.
7. Policy PR.1 requires all development proposals to respect and, where possible, to enhance the quality and character of an area. Policy DEV.1 of the Local Plan sets out a number of criteria which should be taken into account to ensure that development contributes to the character and quality of the local area through the layout and design of new buildings.
8. The Council's Proposed Submission Core Strategy (CS) was the subject of a further round of consultation in June and July 2014, with the aim of submitting it to the Secretary of State this year. However, given the emerging status of the CS, little weight can be given to its draft policies. Nevertheless, Welford-on-Avon is identified in the CS as a Category 2 Local Service Village wherein draft Policy CS16 advocates some new housing being located.
9. Similarly, reference is made to the Welford-on-Avon Neighbourhood Plan. However, given the relatively early stage of its preparation, I afford this document little weight in this appeal.
10. The appellant refers to recent appeal decisions¹, which show the Council's apparent inability to demonstrate an adequate supply of housing land, in the terms of the Framework, to meet the demonstrated need.
11. The Framework advises at paragraph 49 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. In this respect the Council points to its 'Information Sheet No: XX/2014'. This report demonstrates that Stratford-on-Avon District has a 5.8 year supply of deliverable housing sites. However, as this report has not been independently examined it cannot attract the substantial weight the Council considers it deserves.
12. The evidence on the topic of housing land supply is inconclusive. However, even if I were to share the appellant's view that the Council has not demonstrated an adequate supply, which was the position at the time planning

¹ Appeal refs: APP/J3720/A/11/2163206; APP/J3720/A/13/2202961; APP/J3720/A/13/2202101; and APP/J3720/A/13/2205529

permission was refused, the issue would have been whether the proposal constituted sustainable development. The Framework advises at paragraph 7 that there are three dimensions to sustainability: economic, social and environmental and these are to be considered together because they are mutually dependant.

Sustainable development

13. The appeal site is located towards the southern end of the village of Welford-on-Avon. To the north and south of the appeal site, along Long Marston Road, the majority of the properties are regularly spaced detached dwellings, with large rear gardens. Opposite the appeal site is a cul-de-sac, Orchard Close. Further to the south, on the edge of the village a new residential development, Hayfield Lawns, is being constructed, which also takes the form of a cul-de-sac. The appeal site currently forms the garden to 'Sunrays' and 'The Willows' and is accessed from Long Marston Road by a track to the north of 'Sunrays'.
14. Long Marston Road, in the vicinity of the appeal site, has a verdant character with mature landscaping in the form of trees, hedges and shrubs. The landscaping and relatively flat topography limit any views to the rear of the properties along the road and beyond.
15. Welford-on-Avon has a number of facilities including a school, shops, public houses, church and a village hall. It is recognised in the emerging CS as a sustainable location for residential development. The proposal would generate economic gains through the financial investment in the local economy during construction, and likely long term support for local businesses from future occupants of the development as envisaged by paragraph 55 of the Framework. The provision of a mix of market and affordable housing would also produce significant social benefits.
16. As I saw on my site visit a number of local facilities, which would meet any future occupiers' day to day needs, are located within walking distance of the appeal site. There is also a regular bus service to Stratford, where a wider range of services would be available.

Character and appearance

17. The Council, Parish Council and many local residents, had raised concerns about the impact of the proposed development on the character and appearance of the area. In particular, the density of the proposals which, in their opinion, results in a cramped, urban development, at odds with the existing linear pattern of development.
18. Whilst mindful of the village Design Statement and the District Design Guide, it seems to me that the pattern of the proposed layout would reflect that found elsewhere within the village, and the design of the houses would be typical of the local vernacular. Whilst the density of the development would be higher than the surrounding houses along Long Marston Road, it would be acceptable given that each dwelling would have its own private amenity space and the detached dwellings fronting the public highway would retain the existing linear pattern of the street.
19. The retention and enhancement of the existing boundary landscaping would also ensure that views from Long Marston Road would not be very different in character from the existing situation. Indeed the form of the built development

would be seen against the backdrop of the existing mature hedgerows that would separate the village edge from the open land beyond; a feature which occurs at present.

20. Furthermore, the mix of dwellings types and density provide the opportunity to cater for the current and future demographic needs of different groups in the community as encouraged by the Framework at paragraph 50.
21. These factors would ensure that the proposal would not appear cramped or out of keeping with the existing built environment and would help to assimilate the development into the village.
22. The appellant in support of the proposal states that a similar development, to the south of the appeal site, by Cala Homes '*Hayfield Lawns*' had recently been granted permission by the Council. Whilst the development is similar in terms of its layout as a cul-de-sac, the scheme is not directly comparable due to its location on the edge of the settlement and that the site was partially previously developed land. Therefore I have determined this appeal on its own merits.
23. I understand the local concern that allowing this appeal may create a precedent for further similar developments. However, I do not consider that this decision, based on the sites particular merits and characteristics, creates a precedent that is binding on the Council.
24. Several objectors refer to paragraph 53 of the Framework and comment that the proposal would be inappropriate development of residential garden land. However this paragraph of the Framework merely advises that Councils should 'consider the case for setting out policies' regarding the matter; as I am not aware that the Council has done so, this paragraph is of limited weight.
25. Therefore, I find that the design and location of the development would relate well to the existing village and, whilst it would result in the loss of some garden land, it would not conflict with the overall aims of policies PR.1 and DEV.1 of the Local Plan, which are mainly concerned with design standards.
26. It would also comply with the Framework which states that it is important to plan positively for the achievement of high quality and inclusive design for all development and that decisions should aim to ensure that developments will function well and add to the overall quality of the area; optimise the potential of the site to accommodate development, create and sustain an appropriate mix of uses and support local services and facilities; respond to local character and history, and reflect the identity of local surroundings and materials; and are visually attractive as a result of good architecture and appropriate landscaping.

Other matters relating to sustainable development

27. Objections to the proposals also include the concern that Welford-on-Avon has had several approved housing schemes, amounting to some 40 new dwellings and will soon have reached the prospective target for housing development allocated to it in the emerging Core Strategy. However, as noted previously, this figure has not yet been subject to public examination and can carry limited weight at this stage. In any event, sustainable development should not, I consider, be restricted solely because a projected allocation has been met, if otherwise found acceptable.

28. From the evidence before me and from what I saw on my site visit, I see no reason to disagree with the Highway Authority's view that the development would not have an adverse impact upon highway safety. There is also nothing before me to corroborate the view that the proposed development would lead to unacceptable harm to local wildlife and trees; and that is borne out in the appellant's Extended Phase 1 Habitat Survey and Arboricultural Assessment.
29. Given the trees and hedging on the boundaries, and the distance of the proposed dwellings from neighbouring properties, any overlooking or loss of privacy or daylight would be minimal and would not lead to unacceptable harm to the living conditions of occupiers of neighbouring properties. In view of this and my findings above I do not consider that the proposal would result in an over development of the area.
30. With regard to flooding and drainage, whilst I note the concerns of local residents in this respect and the absence of objection from statutory consultees, there is no substantive evidence before me to demonstrate that the proposed development would, of necessity, exacerbate flooding problems in the locality.
31. To conclude on this main issue, the proposal would amount to a sustainable form of housing development when assessed against the Framework as a whole and the development plan policies described above.

S106

32. A Section 106 Obligation, by way of an Agreement between the landowners, the appellants and the Council, and dated 18 September 2014, was submitted with the appeal documentation. The Obligation relates to the provision of: affordable houses; the future maintenance arrangements for the ecological and landscape area; off-site open space contribution; library contribution towards the mobile service; primary education contribution for improving services and facilities at Welford-on-Avon Primary School; highways contribution towards the provision of new 'gateway' features; and travel pack contribution.
33. From the evidence before me, I am satisfied that the proposed contributions satisfy the requirements of the Community Infrastructure Levy Regulations, Regulation 122, and the Framework, in that they are necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably relate in scale and kind to the proposal.

Conditions

34. In addition to the standard commencement and compliance with approved plans conditions, a condition will be imposed to ensure that the proposed external materials to be used are to be submitted for approval and subsequently used. These conditions are to ensure the scheme remains in accordance with the application proposals.
35. Hard and soft landscaping conditions, together with measures for protecting existing planting and the extent of garden areas to plots 6 and 7, are attached to ensure that the scheme is well integrated into its surroundings.
36. Conditions to ensure a satisfactory drainage scheme will be necessary to limit flood risk and the efficient disposal of foul and surface water from the site.

However a condition to require fire hydrants and a water supply to them is not necessary as it is covered by other legislation.

37. In order to ensure that the development is sustainable, with regard to national and local planning policy, a scheme to ensure that a percentage of the on-site energy will be from renewable sources will be required to be submitted for approval and subsequently implemented and all houses will be required to have a water butt and 3 refuse bins. However the requirement to meet Level 3 of the Code for Sustainable Homes, 50% of dwellings is not required as it is covered by other legislation.
38. Conditions requiring a protected species contingency plan to be approved and implemented will be imposed to ensure protected species are safe guarded.
39. To ensure a satisfactory appearance for the proposed development, conditions will require the submission and implementation of an external lighting design scheme and details of eaves, verges, heads and cills of windows, porches and chimneys of the new dwellings. However, no evidence has been provided to show what it is necessary to restrict permitted development rights for external lighting. Therefore this part of the suggested condition will be removed.
40. During the construction period, public safety and amenity will be secured by the implementation of an approved construction method statement. Conditions regarding highway safety are required to ensure a bellmouth access is constructed, suitable visibility splays and footways, highway drainage, and gates not opening within 15m of the highway.
41. Conditions to ensure that obscure glazing is fitted to the en-suite window of plot 15 and the restriction of permitted development rights for plot 1 in terms of windows, dormers and roof lights in the eastern elevation/roof slope are required to protect neighbouring occupiers living conditions.
42. Permitted development rights in respect of development listed in Part 1 classes A to E of the Town and Country Planning (General Permitted Development) Order 2008 will be removed with regard to plots 6, 7 and 15 to protect neighbouring living conditions and local biodiversity.
43. It is also necessary to impose a condition requiring an archaeological watching brief, as there is potential for archaeological features pre-dating the medieval period.
44. Due to the historic use of the site as agricultural land there is low risk of ground contamination. Accordingly conditions are attached to require a 'phase I assessment' and subsequent measures should contamination be discovered.

Conclusion

45. I have found that the proposal would constitute sustainable development, which should be seen as the golden thread running through decision making. Therefore, for the reasons given above, and taking into account all other matters raised, I conclude that the appeal should be allowed.

Joanne Jones INSPECTOR

ANNEX

Schedule of Conditions

- 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: 13-1392/L Location Plan; 13-1392-02G; 13-1392-03G; 13-1392-04F; 13-1392-05F; 13-1392-06G; 13-1392-07H; 13-1392-08F; 13-1392-09F; 13-1392-010G; 13-1392-017A; WA501-001-AP; 002-AP and 003-AP-P1.
- 3) No part of the development hereby permitted shall be commenced until a scheme for all drainage works has been submitted to and approved in writing by the local planning authority and no part of the development shall be occupied until the approved works have been carried out.
- 4) No development shall take place until samples and trade descriptions of the materials to be used in the construction of the external surfaces of the buildings hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 5) No part of the development hereby permitted shall be commenced until large scale (1:20) drawings of eaves, verges, heads and cills of windows, porches and chimneys have been submitted to and approved in writing by the local planning authority and thereafter the development shall only be carried out in accordance with the approved details.
- 6) No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. The works shall be carried out in accordance with the approved details prior to the occupation of the development or alternatively in accordance with a programme of implementation submitted to and agreed in writing by the local planning authority.
- 7) A) No development shall take place until an investigation of the nature and extent of any contamination affecting the site has been carried out by a suitably qualified and experienced person, in accordance with a methodology based on a Phase I assessment and conceptual site model for the application site, in accordance with BS10175. The site investigation methodology, its results and the recommended remediation plan shall be deposited with the local planning authority before any development begins.

B) If, during the site investigation (described in paragraph A above) any unacceptable contamination is found a further report specifying the measures to be taken to remediate the site shall be deposited with the local planning authority. The site shall be remediated in accordance with the approved measures before the development hereby permitted commences.

C) If, during the course of the development, any unacceptable contamination is found which has not been identified in the site investigation; additional measures for the remediation of this source of contamination shall be detailed in writing to the local planning authority and shall be implemented.

The development hereby permitted shall not be brought into or continue in use unless and until all and any remediation works identified under paragraphs A,B and C above have been carried out and a Validation or Post-remediation Report produced by a suitably qualified and experienced person has been submitted to and approved in writing by the local planning authority.

- 8) Before the development hereby permitted is brought into use details of any external lighting shall be submitted and approved in writing by the local planning authority; the development shall be carried out in accordance with the approved details.
- 9) Prior to the first occupation of each dwelling hereby approved the developer shall provide 3 bins, in accordance with the Council's bin specification, for the purposes of refuse, recycling and green waste for the use of the residents of that dwelling. The bins shall thereafter be retained for that purpose.
- 10) No development shall take place until details of a scheme for the provision of energy from on-site renewable sources sufficient to replace a minimum of 10% of the predicted carbon dioxide emissions from the total energy requirements of the development has been submitted to and approved in writing by the local planning authority. The details shall include an implementation programme. The scheme shall be implemented in accordance with the approved details and retained as operational thereafter.
- 11) A minimum of 50% of the dwellings hereby approved shall be designed and built to meet all relevant specifications of the Joseph Rowntree Foundation's 'Lifetime Homes' standards.
- 12) No dwelling hereby approved, that has a rainwater downpipe, shall be first occupied until it has been provided with a minimum 190 litre capacity water butt fitted with a child-proof lid and connected to the downpipe. The water butt shall thereafter be retained as installed.
- 13) Protective fencing and/or other protective measures shall be erected around each tree and hedge to be retained in accordance with a scheme which must first be submitted to and approved in writing by the Local Planning Authority (i.e. an Arboricultural Method Statement and Tree Protection Plan to British Standard 5837:2012 Trees in relation to design, demolition and construction – Recommendations) before any site clearance works or development commence, and before any machinery or equipment has been allowed on site.

The scheme shall show the type, height and position of protective fencing too be erected around each tree(s) or hedge to be retained this shall be in accordance with clause 6.2 "Barriers and ground protection" of the British Standard 5837:2012.

The area surrounding each tree/hedge within the protective fencing shall remain undisturbed during the course of the works, and in these areas:

- i. There shall be no changes in ground levels;
- ii. No materials or plant shall be stored;
- iii. No buildings or temporary buildings shall be erected or stationed;

- iv. No materials or waste shall be burnt; and
 - v. No drain runs, trenches or other excavations shall be dug or otherwise created without the prior written approval of the Local Planning Authority.
- 14) The development hereby permitted shall not be occupied until the first floor en-suite window on the northern elevation of plot 15, hereby permitted, has been glazed with obscure glass to a minimum of level 3 and shall be thereafter maintained in this condition at all times.
- 15) Notwithstanding the provisions of the Town and Country (General Permitted Development)(Amendment)(No.02)(England) Order 2008 (or any Order revoking or re-enacting that Order with or without modification) no windows, dormers or roof lights shall be inserted in the eastern elevation and/or roof slope of plot 1.
- 16) No development shall take place (including site clearance) until a protected species contingency plan has been submitted to and approved in writing by the local planning authority. The contingency plan shall include a detailed schedule of badger mitigation measures (including any additional survey work as appropriate) and adequate safeguards/working practices in relation to reptiles and nesting birds. The agreed contingency plan shall thereafter be implemented as approved.
- 17) No development shall take place within the site until the appellant or their agent or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority.
- 18) The access and amended footways shall be laid out in accordance with drawing no. 20574_03_002 rev D.
- 19) The development shall not be commenced until visibility splays have been provided to the vehicular access to the site with an 'x' distance of 2.4m and a 'y' distance of 90m to the north and south as measured to the near edge of the public highway carriageway. No structure, tree or shrub shall be erected, planted or retained within the splays exceeding, or likely to exceed at maturity, a height of 0.6m above the level of the public highway or carriageway.
- 20) The access to the site for vehicles shall not be used unless a bellmouth has been laid out and constructed within the public highway in accordance with a scheme to be submitted to and agreed in writing with the local planning authority. The scheme shall be implemented in accordance with the approved details.
- 21) The access to the site shall not be constructed in such a manner as to reduce the capacity of any drain or ditch within the limits of the public highway.
- 22) No gates erected at the entrance to the site for vehicles shall be hung so as to open to within 15m of the near edge of the public highway carriageway.
- 23) 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 approved Statement shall

be adhered to throughout the construction period. The Statement shall provide for:

- A plan showing the parking/loading/unloading of vehicles of site operatives and visitors;
- storage of plant and materials used in constructing the development;
- the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- wheel washing facilities;
- measures to control the emission of dust and dirt during construction;
- a scheme for recycling/disposing of waste resulting from demolition and construction works; and,

- 24) No development shall commence, excluding demolition, until a plan showing the extent of the private garden to plots 6 and 7, which shall exclude the landscaping/badger protection area along the western boundary and details of the means of enclosure/boundary treatment has been submitted for approval in writing by the local planning authority. The boundary treatment/enclosures shall then be erected on site prior to first occupation of these plots.
- 25) Notwithstanding the provisions of the Town and Country (General Permitted Development)(Amendment)(No.02)(England) Order 2008 (or any Order revoking or re-enacting that Order with or without modification) no development covered by Part 1 Classes A and E shall be carried out in relation to plots 6, 7 and 15 without planning permission granted by the local planning authority.