



Appeal Decision

Site visit made on 16 March 2015

by Paul Griffiths BSc(Hons) BArch IHBC

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

Decision date: 23 April 2015

Appeal Ref: APP/W1850/A/14/2228744

Land adjacent to Vine Tree Close, Withington

- 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 Mr Paul Smith against the decision of Herefordshire Council.
 - The application Ref.P141134/O, dated 7 April 2014, was refused by notice dated 29 October 2014.
 - The development proposed is described as the 'erection of up to 50 dwellings; construction of new vehicular access; and associated works'.
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Preliminary Matters

1. The originating application was made in outline with access and layout at issue and appearance, landscaping and scale reserved for future determination. In the course of the application, the number of dwellings proposed was amended to up to 45 and layout became a reserved matter. I have dealt with the appeal on that revised basis and treated everything on drawings 763-03: Entrance – Existing & Proposed, 763-04 revision A: Development Framework Plan, and the un-numbered: Site Location Plan that goes beyond site identification, and details of the means of access, as illustrative.

Decision

2. The appeal is dismissed.

Main Issues

3. The Council cited four reasons for refusal. The fourth of those referred to the lack of an Obligation to secure affordable housing and various contributions. This has been addressed through an Agreement under Section 106 dated 13 March 2015.
4. In their statement of case, the Council acknowledges that their third reason for refusal, relating to flood risk, could be addressed by a suitably worded condition requiring the submission of a surface water drainage scheme for approval. On my analysis, that is correct.
5. On that basis, the main issues to be considered are the effect of the proposal on (1) the living conditions of the occupiers of Nos.4 and 6 Vine Tree Close through noise and disturbance; and (2) the landscape setting of the village, its conservation area and listed buildings within it. That analysis needs to take place in the light of the Council's acknowledged inability to demonstrate a five year supply of deliverable housing sites.

Reasons

6. As a preamble to consideration of those issues, it is important to set out the basis of the decision-making process in this case. Paragraph 49 of the Framework¹ sets out that housing applications should be considered in the context of the presumption in favour of sustainable development. 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.
7. This takes the decision-maker to paragraph 14. It says that at the heart of the Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking.
8. For decision-taking this means (unless material considerations indicate otherwise) approving development proposals that accord with the development plan without delay; and where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, or specific policies in the Framework indicate that development should be restricted. The appeal site is not one where the latter of those considerations applies.

Issue 1

9. UDP² Policy DR2 requires development to not prejudice the amenity or continued use of adjoining land and buildings, amongst other things. UDP Policy H13 deals with what it terms sustainable residential design. One of a range of expectations is that proposals should provide for acceptable levels of residential amenity both within the scheme, and in nearby properties.
10. I make clear, at this juncture, that these are not, in my view, relevant policies for the supply of housing. Neither, having regard to paragraph 215, can it reasonably be said that these policies are inconsistent with the Framework. One of its core principles is that a good standard of amenity for all existing and future occupants of land and buildings should always be sought.
11. The means of access to the site would be provided by demolishing No.5 Vine Tree Close and running a roadway, 4.8 metres wide, with pavements either side, in the space so formed between Nos.4 and 6. This would join the appeal site to Vine Tree Close.
12. At present, while I am sure the occupiers of Nos.4 and 6 must be aware of the coming and goings of pedestrians and vehicles along Vine Tree Close, they will enjoy more peace and quiet at the rear of their houses, and rear gardens. Notwithstanding the existing boundary treatments, that could be augmented as part of the proposal, the formation of an access road, serving up to 45 new dwellings, running between, and very close to Nos.4 and 6, would introduce a significant amount of vehicular and pedestrian traffic in an area where there is currently none. Existing levels of peace and quiet in the rear parts of Nos. 4 and 6, and their gardens, would in my view, be all but obliterated.

¹ The National Planning Policy Framework

² The Herefordshire Unitary Development Plan of March 2007

13. There is criticism of the Council for not providing noise evidence to bolster their concerns in this regard. However, it is not the level of noise that would be the problem, but the disturbance comings and goings of vehicles and pedestrians would cause, in an area where there are currently none of these movements.
14. It is my view that for the reasons set out, the proposal would have a significant detrimental effect on the living conditions of the occupiers of Nos.4 and 6 Vine Tree Close. This brings the proposal into direct conflict with UDP Policies DR2 and H13 and the core principle of the Framework referred to.

Issue 2

15. UDP Policy LA2 refers to landscape character and areas least resilient to change. Proposals for development that would adversely affect either the overall character of the landscape, as defined by Landscape Character Assessment and the Historic Landscape Characterisation or its key attributes or features, will not be permitted. Proposals should demonstrate that landscape character has influenced their design, scale nature and site selection.
16. UDP Policy LA3 deals with the setting of settlements. Development outside built up areas, acceptable in terms of other Plan policies, will only be permitted where it would not have an adverse effect upon the landscape setting of the settlement concerned. Important visual approaches into settlements, views of key buildings, open areas into development, green corridors, ridgelines and surrounding valued open countryside will be particularly protected, and where necessary, enhanced. In appropriate new developments around existing settlements, the creation of open space, urban parks, green wedges, and tree lines will be promoted where they complement and enhance landscape character, and townscape.
17. In the light of the approach taken most recently in the High Court³, I do not consider that these policies can properly be considered relevant to the supply of housing. Moreover, I detect no inconsistency in terms of paragraph 215. It is a core principle of the Framework that the intrinsic character and beauty of the countryside should be recognised. Paragraph 109 is very specific that the planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes.
18. As set out in the appellant's LVIA⁴, the Principal Settled Farmlands landscape character type, as outlined in the LCA⁵, is made up of a network of small winding lanes nestling within a matrix of hedged fields. It is a landscape with a notably domestic character defined chiefly by the scale of its field pattern. The strategy of the LCA is to conserve and enhance the unity of these small to medium scale hedged fields. From what I saw, the appeal site is typical of the landscape character type.
19. I accept that the scheme could include additional or strengthened hedgerows and tree planting which would assist with screening. However, it seems to me axiomatic that the imposition of a housing estate on a field, typical of the Principal Settled Farmlands landscape character type, would cause harm to landscape character. This brings the proposal into conflict with UDP Policy LA2, and the strategy of the LCA.

³ Cheshire East Borough Council v SoS for Communities and Local Government & Anor [2015] EWHC 410 (Admin)

⁴ Landscape and Visual Impact Assessment

⁵ The Landscape Character Assessment adopted by the Council as SPG in 2004

20. The landscape setting of the village is a different consideration however. The existing field appears as something of a leftover on the south side of Veldo Lane, largely enclosed by relatively recent housing to the south and east, a woodland to the west, and Veldo Lane to the north. In my view, it plays no important role in the landscape setting of the village.
21. Despite the raised nature of parts of the appeal site, the presence of housing upon it, if carefully laid out and designed, aspects that could be addressed through reserved matters, would not undermine important visual approaches into the settlement, views of key buildings, open areas into development, green corridors, ridgelines or surrounding valued open countryside. In many respects, the proposal would appear as a logical rounding off of the settlement, within strong, existing, boundary features.
22. Moreover, I fail to see how the development of the appeal site would harmfully affect the setting of the Withington Conservation Area, or the listed buildings within the village, when the link between the historic core of the village, with the surrounding countryside, has already been undermined by subsequent housing developments, notably on Vine Tree Close.
23. On that basis, the proposal would have no significant impact on the landscape setting of the village, its conservation area, or the listed buildings referred to. As such, I detect no conflict with UDP Policy LA3.

Conclusion

24. The proposal would cause a considerable degree of harm to the living conditions of the occupiers of Nos.4 and 6 through increased noise and disturbance, in conflict with UDP Policies DR2 and H13. Moreover, the development would result in some landscape harm, contrary to UDP Policy LA2. However, the analysis does not end there because the Council acknowledges that it cannot demonstrate a five-year supply of deliverable housing sites. While UDP Policies DR2, H13 and LA2 cannot be considered out-of-date, for the reasons given, others, notably UDP Policy H4 that sets settlement boundaries and is, thereby, relevant to the supply of housing, must be.
25. This directs the decision-maker to paragraph 14 of the Framework. The provision of housing and affordable housing must be seen as significant benefits in the context of the under-supply that prevails. However, on my analysis, those benefits would be significantly and demonstrably outweighed by the adverse impacts identified, when assessed against the policies of the Framework taken as a whole.
26. For the reasons given above I conclude that the appeal should be dismissed.

Paul Griffiths

INSPECTOR