



Appeal Decision

Hearing held on 18 March 2015

by **D R Cullingford** BA MPhil MRTPI

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

Decision date: 18 May 2015

Appeal Ref: APP/C3240/A/14/2224981

Land west of The Cottage, Arleston Village, Telford, Shropshire, TF1 2LG

- This appeal is made under section 78 of the Town and Country Planning Act 1990 against the refusal to grant planning permission.
- The appeal is by Mr Iwan Jones (for Helical (Telford) Limited) against the decision of the Telford and Wrekin Borough Council.
- The application (ref: TWC/2014/0057 and dated 15 January 2012) was refused by notice dated 17 June 2014.
- The development is described as an application for 'outline planning permission for the erection of 30 No. bungalows for the elderly replacing the provision of 50 No. extra care housing units permitted under planning permission TWC/2014/0240'.

Procedural matters

The need for EIA

1. Although this 'urban development project' falls within the descriptions set out at paragraph 10b of Schedule 2 and exceeds the thresholds in column 2 of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2011, the Screening Opinion issued by the Council on 10 February 2012 indicates, having regard to the criteria set out in Schedule 3 to the Regulations, that the scheme would be unlikely to have any significant environmental effect. Accordingly the scheme is not EIA development and an Environmental Statement is not required.

Decision

2. I dismiss this appeal.

Main issues

3. From what I have heard, read and seen, I consider that this appeal turns on whether:
 - i) the role and function of this undeveloped land (including the wider site) would warrant its protection, given the current and emerging planning policies applicable here, and if it would,
 - ii) the environmental and community benefits entailed in proceeding with this scheme would be sufficiently compelling to warrant the development proposed.

Reasons

The site

4. The appeal site extends to just over 1ha. It is a rectangular enclave covered in rank grasses, self-sown saplings, undergrowth and the occasional oak that is part (roughly 14%) of a larger site (about 7.3ha) of scrub, copse and woodland benefitting from an

extant permission granted in October 2012 to erect 103 houses and a 3-storey block accommodating 50 extra care units (TWC/2012/0240); the bungalows now proposed on the appeal site are intended to replace the block of extra care units. The whole area is part of Telford's 'green network' identified in the Wrekin Local Plan 2000.

5. Solid semi-detached dwellings, originally built as a Council estate in the 1950s, lie beyond Kingsland and the dense hedge forming the northern boundary of the appeal site: the occasional ancient and Listed cottage stands amongst the detached houses and bungalows of Arleston Village on the eastern boundary: scrub-land and Dawley Road lie to the west and more scrub, burgeoning woodland and the M54 lie to the south. Here an avenue of cypress trees leads to the restored Arleston Manor, now partly set amongst some large detached dwellings permitted partly, I understand, to facilitate that restoration. A footpath traverses the 'larger' site connecting Dawley Road and Arleston Lane and providing access (at its eastern end) to the buildings and yard of a modest factory (Serchem), one or two associated dwellings and an ancient detached cottage.
6. A parade of shops lies about 500m away at a junction of Kingsland and Dawley Road. Other facilities, including schools, community centres, shops, surgeries, public houses, restaurants and play facilities lie within about 1.5km. Further afield (about 1.8km distant) is the Wellington District Centre with a post office together with bus and rail links to larger centres. The Wrekin Retail Park, containing a large Tesco store, is about 500m to the west of the appeal site. A local bus service follows a meandering route past the appeal site on an hourly basis: other buses run within about 400m of the site.

The proposal

7. The application is submitted in outline with all matters except the means of access reserved for subsequent approval. Access to the bungalows would be via a 'T' junction on Dawley Road, as approved in the context of the previous permission (TWC/2012/0240).
8. The previous scheme involved the erection of 103 dwellings and a 3-storey block providing 50 extra care units, all to be provided as affordable rented accommodation in accordance with the bid for finance made by the Wrekin Housing Trust. The scheme also entailed the maintenance, management and enhancement of substantial areas as open space, for recreation, for wildlife and as woodland. About 3.6ha would have remained as some form of 'open space', representing about 50% of the whole 7.3ha site. A section 106 Agreement effectively tied almost all that development to the construction and occupation of the extra care units; clauses allowed no more than 20 market dwellings to be constructed in advance of contracts being let to secure the construction of the extra care units and prevented the occupation of more than 75 market dwellings in advance of the construction of the extra care units. Hence, the eventual failure of the bid for funding to construct and manage the extra care units (finally notified in June 2013) has meant that the extant permission has not yet been implemented.
9. The current scheme is effectively a means to achieve a variation of the extant planning permission. An illustrative plan shows the bungalows arranged around a communal space on the same part of the site as the 3-storey block containing the extra care facility. An agreed and signed Deed of Variation alters the section 106 Agreement so that almost all the development of the market dwellings approved in 2012 would be tied to the construction of either the originally proposed extra care units or the 30

bungalows currently proposed; further controls would cover the occupation of such accommodation for the elderly. Occupation of the bungalows would be restricted to those aged 55 or over and the intention is that all would be available as affordable rented accommodation owned and managed by a suitable Registered Provider. As currently envisaged, there would be no element of care provided on the site nor would there be a resident warden.

10. The bungalows are described as offering a mix of 1 and 2 bedroom properties of 1 and 1½-storeys in height; 13 would contain 1-bedroom and 17 would be 2-bedroom bungalows, the latter being the 1½-storey units. The intention is that the 1½-storey units would contain a spare bedroom on the first floor for visiting friends, relatives or carers. The scheme would be built to HAPPI standards (Housing our Ageing Population: Panel Innovation) reflecting 10 critical design elements, such as circulation spaces that encourages interaction and avoids an 'institutional ambience' and generous internal space standards; some would be accessible to wheelchairs and all homes would enjoy level access arrangements. A Revised Parameters Plan indicates open space along the eastern and northern boundaries of the appeal site reflecting, albeit slightly reducing, the open space indicated on the Approved Parameters Plan; this amounts to a reduction from 0.43ha to 0.32ha within the appeal site, a reduction of 0.11ha or about 25% here but only 1.5% in relation to the whole area of the extant permission.
11. The section 106 Agreement (as varied) would secure contributions to ameliorate the impact of the scheme on highways and open space and provide for maintenance, monitoring and the preparation of a Travel Plan amounting to nearly £278,000. It would also secure the provision of affordable housing for the elderly either in the form of 30 bungalows or 50 extra care units, though in relation to the latter the Agreement itself would currently provide for 20 of those units to be available 'on the market' and 30 as affordable units, in line with the original proposal rather than the final form of the failed bid.
12. Similar conditions are suggested to those imposed on the approved scheme for the extra care units. Most would ensure that the scheme would be implemented as intended, including that: the reserved matters and other details would be submitted to the Local Planning Authority for approval: access arrangements and pedestrian crossing facilities would be implemented: a Travel Plan would be prepared and executed: appropriate site investigations would be undertaken and treatments carried out: foul and surface water drainage systems would be installed and controlled: a Construction Management Plan (including hours of operation) would be devised and implemented: a programme of archaeological work would be secured: trees and hedgerows indicated to remain would be properly protected and nurtured: a lighting strategy would be prepared and realised: a noise attenuation scheme would be instigated: and, an Ecology Mitigation Strategy would be adhered to.

Planning policy and the main issues

13. The Development Plan currently consists of the 'saved' policies of the Wrekin Local Plan (2000) and the Core Strategy (2007). However, the latter is adopted only until 2016 partly due to the EiP Inspector's concerns that the strategic role, function and extent of the 'green network' had not been properly addressed. Work is progressing on a new Shaping Places Local Plan. As yet no Plan, draft or otherwise, has materialised. Nevertheless, consultation documents have emerged on Strategies and Options and on

Housing and Employment sites. The latter shows the whole 7.3ha site as a 'committed housing site', reflecting the extant planning permission.

14. The whole of the 7.3ha site is designated as part of Telford's 'green network' within the Wrekin Local Plan. 'Saved' policy OL3 seeks to protect the 'green network', including key sites and links, to achieve 6 key aims. These are: to create a high quality environment; retain the individual identity of neighbourhoods through the separation of built up areas; provide easily accessible 'green lungs'; maintain a resource to meet diverse recreational needs; protect and enhance the ecological and geological heritage; and, create open space linkages for footpaths, cycle-ways and ecological corridors. 'Saved' policy OL4 insists that sites designated as part of the 'green network' may only be developed if exceptional circumstances are demonstrated, the scheme contributes to, or is complementary to, the aims of the 'green network' and both environmental and community benefits are an integral part of the scheme; the latter also being echoed in policy CS11 of the Core Strategy. Those are the tests that apply here. Accordingly I identify the issues set out above.

The 'green network'

15. The 'green network' has been an integral and long established feature of Telford. Applications to develop this particular element of that 'green space' have been steadfastly refused while attempts to promote its development in the context of preparing the Local Plan and later the Core Strategy have proved unsuccessful, although the site is deemed to be 'deliverable' in the SHLAA (2010) and both 'available' and 'achievable', with a capacity of 225 dwellings, in the most recent SHLAA (2012). Nevertheless, the site remains designated as an element in the 'green network' under the 'saved' policies of the Local Plan and is protected both in that Plan and by the Core Strategy.
16. The appellants point out that the role, function and extent of the 'green network' has not really been reviewed since its designation was confirmed in the old Telford Local Plan (1993) and that the absence of such a review was explicitly referred to in assessing the Core Strategy as 'sound' only for the relatively short 10 year period up to 2016. A review appears to be integral to the preparation of the currently emerging Local Plan. The appellants claim that the indications are that the 'green network' may be subsumed into a wider and more general policy approach to 'green ways', as described in the Housing and Employment sites consultation document, which also identifies the appeal site as a 'housing commitment'.
17. However, there is no sense in which that consultation document could be regarded even as an embryonic plan. It is really a vehicle to promote a discussion of possibilities and to elicit a considered response. Moreover, the extant planning permission is not an unfettered commitment to housing development on the site. It is subject to realising the provision of the extra care units and, in the absence of those units, is a commitment to no more than 20 dwellings somewhere on the wider site. In any case, the Strategies and Options consultation document sets out a clear approach to the continuing protection of elements within the 'green network' by the intention to identify locations warranting 'maximum', 'special' and 'standard' protection associated with strategic, significant or more local functions, the latter being subject to the 'normal green infrastructure policies contained in the Local Plan'. Hence, although the form of protection is likely to change (as advised by the EiP Inspector), it seems to me that the

principle of protection, based on the role, features and function of such 'green spaces' is likely to remain integral to whatever emerges in the new Local Plan.

18. A Landscape Sensitivity Study and a Green Infrastructure Needs Study are intended to inform the reassessment of the 'green network'. The latter indicates that Wellington, in which Arleston lies, achieves less than 25% of the 'recommended quantity standard' of provision for young people and for children and below 75% in relation to the future provision of amenity green space, access to nature and access to allotments; the recommended provision of outdoor sports facilities and parks or gardens are largely met. The implication is that there is a dearth of 'green infrastructure' in relation to some key functions in the local area that still needs to be addressed.
19. The Landscape Sensitivity Study suggests that the appeal site and the wider area of which it is a part are of only 'medium low' sensitivity to development and that its enclosure, its location beside housing estates and the M54 and its run down character 'mean that housing is appropriate' here. But it seems to me that that assessment is seriously flawed or, at best, very limited. There is no explicit recognition that the area is part of the 'green network' or that it may contain areas of deciduous woodland within that 'priority habitat inventory'. And, although it is recognised as having a recreational function, containing 'many well used informal footpaths' and a 'public footpath' across the site and accommodating a 'frequent presence of people' with housing nearby, it appears that it is its visual relationship with the surrounding landscape that has primarily informed the assessment. The aims of the 'green network' set out in policy OL3 that have warranted its protection for over a quarter of a century seem to have been ignored. In my view the wider site could contribute to those aims. It could clearly contribute to a 'high quality environment' providing a 'green gateway' at this entrance to the neighbourhood, a 'green buffer' beside the M54 and a 'green edge' to the nearby estates: it clearly helps to retain the 'individual identity of neighbourhoods' and to 'separate built up areas' enveloping and maintaining the unique identity of Arleston Village, the semblance of a setting for Arleston Manor and both separating and infiltrating the estates to the east, north and west: it offers an easily accessible 'green lung' to the residents of the nearby estates; the numerous informal footpaths testify to its role in meeting several 'recreational needs'; the presence of deciduous woodland within that 'priority habitat inventory' offers an opportunity to enhance an aspect of the local 'ecological heritage'; and, the existence of a public right of way across the site already provides an 'open space link for footpaths, cycle-ways and ecological corridors'. The location, configuration, use, function, ecology and character of the wider site could hardly align better with the aims and purposes set out in policy OL3.
20. Of course, the site is not a public space. And, both the appeal site and parts of the wider site are unkempt. But, it never has been a public space. And, neither that nor its current condition is a defining characteristic of the 'green network'. Hence, I consider that the role and function of this undeveloped land (including the wider site) could well warrant its protection under the current statutory policies that apply here. The consultation documents, as yet all that has emerged from the Shaping Places Local Plan, do not indicate that protection for the 'green network' is likely to cease and, in the absence of anything that could properly constitute an emerging policy, it seems to me that the current policies should prevail. Moreover, they chime with the advice in the Framework (NPPF) by helping to establish a strong sense of place, incorporating green spaces into developed areas and responding to local character and identity. There are thus good reasons warranting the protection of this place.

The benefits of the scheme

21. The first test imposed by policy OL4 is that sites designated as part of the 'green network' may only be developed if exceptional circumstances are demonstrated. An important 'exceptional circumstance' relating to the previous permission was the provision of 50 'extra care units', given the provision of barely half the further 500 affordable units required up to 2021 identified in the Council's Care and Support Strategy (2006), and the location of those units actually provided mainly in the southern part of the Borough. I now have the benefit of figures agreed between the parties demonstrating that in spite of the recent spate of delivery, there still remains a need to provide a further 109 affordable 'extra care units' by 2021.
22. The substitution of 30 affordable bungalows for the elderly to replace the 'extra care units' is a response to the failure of the bid for finance by the Wrekin Housing Trust. I can see from the latest SHMA (2014) that almost half of the net housing requirement in the Borough over the next 20 years is estimated to be generated by the elderly (65 and over) and that within that estimate a substantial proportion is for some form of 'specialised' (designated, sheltered and extra care) housing. The recently updated Guidance (21 March 2015) indicates that Councils should address the wide range of accommodation needs for the elderly 'from suitably and appropriately located market housing to residential institutions'. Clearly, the advice implies that a package of different forms of accommodation should be catered for. The proposed bungalows would be affordable, but they would not be 'specialised', no element of care, supervision or even attendance is envisaged. And, although the intention is that they would demonstrate examples of good design and 'best practice', I do not consider such features to be particularly exceptional. After all, affordable bungalows for the elderly are not uncommon and the incorporation of 'best practice' and good design is no more than the Framework requires.
23. In any case, it is still far from certain that the affordable bungalows would be delivered. Although the Wrekin Housing Trust has recently expressed an interest in the scheme, they explain that any offer would be subject to 'internal approval, assessment of demand, satisfactory planning, independent valuation and specification'. Moreover, their previous firm offer in relation to the 'extra care units' failed to achieve funding. The Trust explains that their current lack of interest in now pursuing a scheme for 'extra care units' on the appeal site is due to the instigation of 3 such projects within a radius of about 5 miles and their own scheme for 63 units less than a mile away on Holyhead Road. But there remains a lacuna here for it is hard to square the absence of interest in 'extra care units' on the appeal site with the burgeoning provision over the same period made by the same 'registered providers' that has actually taken place in the vicinity and the continuing need for such accommodation estimated both by the Council and in the latest SHMA. In addition, no evidence is adduced in relation to any cross-subsidy or financial contribution towards either the 30 affordable bungalows or the 'extra care units' derived from the provision of the market housing envisaged here. In those circumstances, I remain unconvinced that the provision of the 'extra care units' must be abandoned. Indeed, as was very fairly observed at the Hearing, there could well be a chance that a future bid from an appropriate body might succeed.
24. The second test imposed by policy OL4 is that the scheme should contribute, or be complementary, to the aims of the 'green network'. The proposal involves measures to maintain, manage and enhance about half the wider site as open space, for recreation, for wildlife and as woodland; new planting would be undertaken, a play area provided,

dry ponds introduced and there would be opportunities for additional links entailing footpaths, cycle-ways and ecological corridors. However, I saw that a large part of the area that would be made formally available as open space is already criss-crossed with 'informal' footpaths. Although the scheme would provide for the management of that space, it would also introduce housing into significant parts of it, so reducing the separating function of the 'green space' remaining and the sense of immersion amongst natural surroundings. The claim is that all the important functions of the 'green network' would be unimpaired by the proposal. I disagree. The site would no longer contribute to a 'green gateway' at this entrance to the neighbourhood or much of 'green buffer' beside the M54; housing would practically extend to Dawley Road and to the Arleston Manor driveway. The 'individual identity of neighbourhoods' and the 'separation of built up areas' would be diminished; development would encroach much closer to Arleston Village, add to the expanse of dwellings around Arleston Manor and lie directly opposite estates to the east, north and west. The extent of the 'green lung' would be halved and dwellings would encroach into the area of deciduous woodland within that 'priority habitat inventory'. Hence, I consider that the scheme would neither contribute to, nor complement, the aims of the 'green network' sufficiently to satisfy the requirements of policy OL4.

25. The final test imposed by policy OL4, echoed by policy CS11, is that both environmental and community benefits are an integral part of the scheme. They are. But, the measures to maintain, manage and enhance the remaining open space would apply to only half the wider site and the dwellings proposed would intrude significantly into several portions of the open space that would remain. The provision of 30 affordable bungalows for the elderly would represent a community benefit in helping to meet a forecast need for such dwellings. But, in my view, that need would not amount to a sufficiently exceptional circumstance to meet the requirements of the policy. It follows that, although there are environmental and community benefits associated with this scheme, they would not suffice to warrant the damaging impact of the project.

Other matters

26. I have considered all the other matters raised. The scheme would represent a way to unlock the potential housing provision represented by the permitted scheme in meeting the need for market and affordable housing for the elderly in the Borough. Estimates indicate barely sufficient deliverable housing land to provide for 1.9 or 2.2 years (as indicated for the appellants) or 2.6 years (as suggested by the Council). Those estimates of available housing land thus fall well short of a 5-year supply and, in the end, the Council did not resile from that position. In those circumstances, permission for housing schemes should be granted unless specific policies in the Framework indicate that development should be restricted or unless any adverse impact of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. In this case, the Framework explicitly refers to policies relating to the protection of 'local green spaces' as reasons to restrict development. Moreover, the reasons advanced for designating 'green space' as worthy of protection would appear to be consistent with the functions performed by this particular element of the 'green network'; it is local, it is demonstrably special to the local community (as indicated by the 162 letters of objection and the petition containing 321 signatures), it has recreational value (as the informal footpaths demonstrate) and it is not an extensive tract of land. Hence, the absence of a 5-year supply of deliverable housing sites would not warrant the development of this element of the 'green network'.

Conclusion

27. I have found that, although the form of protection is likely to change, the principle of protection, based on the role, features and function of the 'green spaces' here is likely to remain as an integral part of the new Local Plan. I consider that the location, configuration, use, function, ecology and character of this element of the 'green network' would align very well with the aims and purposes of policy OL3, which remains a statutory policy applicable here. I consider that the proposed bungalows for the elderly, although likely to demonstrate 'best practice' and be affordable, would neither be particularly exceptional nor contribute to the aims of the 'green network' sufficiently to satisfy the requirements of policy OL4. It follows that the scheme would contravene the requirements of the Development Plan and fail to reflect the relevant guidance in the Framework. In those circumstances, and having found nothing else sufficiently compelling to alter my conclusions, I consider that this appeal should be dismissed.

David Cullingford
INSPECTOR

Richborough Estates

APPEARANCES

FOR THE APPELLANT:

Iwan Jones	Appellant
Jolande Bowater BSc DipTP MRTPI	Associate, Barton Willmore Planning Partnership
Rob Huntley	Managing Director, Pioneer Property Services Limited

FOR THE LOCAL PLANNING AUTHORITY:

Vincent Maher BA MSc MCD MRTPI	Planning Consultant, c/o Telford and Wrekin Borough Council
Cllr Angela M ^c Clements	Ward Councillor

INTERESTED PERSONS:

Glyn Devey	Local resident
Gillian and David Barnett	Local resident
Paulette and Bob Bruce	Local resident
Paula and Ken Whitcombe	Local resident
Steve Ball	Local resident

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DOCUMENTS

- Document 1 List of persons present at the Hearing
Document 2 Statement and appendices 1-20 ~ Jolande Bowater
Document 3 Appeal time-line
Document 4 E-mail ~ Jolande Bowater
Document 5 Recent provision of affordable 'extra care units'
Document 6 E-mail comments on changes to NPPG on 21 March 2015
Document 7 E-mails between Rob Huntley and Wrekin Housing Trust; the Trust's lack of interest in 'extra care units' but interest in affordable bungalows
Document 8 Flyer relating to local concern about the appeal.
All other proofs of evidence, appendices, statements, submissions, plans and communications are on the file

PLANS

- Plans A Application plans
1 Application boundary plan 15585 RG56 RevB
2 Indicative residential areas plan 15585 RG48 RevC
3 Design parameters plan 15585 RG58
Plans B Illustrative plans
1 Revised parameters land use plan 15585 RG38 RevH
2 Illustrative layout 15585 RG11 RevAd
3 Illustrative housing mix plan 15585 RG15 RevH

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