
Appeal Decision

Site visit made on 10 August 2015

by Joanne Jones BSc(Hons) MA MRTPI

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

Decision date: 09 September 2015

Appeal Ref: APP/J3720/W/15/3039153

Land to the north of Millers Close, Welford-on-Avon (Grid Reference 415013 252042)

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Mr Nick Carr against Stratford on Avon District Council.
 - The application Ref 14/02810/OUT is dated 10 October 2014.
 - The development proposed is the erection of up to 30 residential dwellings with associated access infrastructure.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The planning application which became the subject of this appeal was made in outline, with details of access provided, but details of appearance, landscaping, layout and scale reserved for future consideration. I have determined the appeal on that basis.
3. Following the submission of the appeal a signed and dated agreement pursuant to Section 106 of the Town and Country Planning Act 1990 (S106), dated 4 August 2015, has been submitted. The S106 has been considered under the statutory tests under Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010.
4. At its meeting on 24 June 2015 the Council's Planning Committee West resolved that had it been in a position to determine the planning application it would have refused it for the following reasons:
 1. *In the opinion of the District Planning Authority the proposed development would have an unacceptable adverse impact on highway safety in the vicinity of the site caused by:-*
 - *an intensification in the use of the proposed (modified) access relating to vehicles leaving the site due to the substandard access visibility splay to the east;*
 - *traffic generation from the development intensifying the use of the Millers Close/High Street junction which, due to a pinch point in Millers Close, has restricted width governed by a priority arrangement, will lead*

to increased queuing and delay on the highway network with the potential to lead to increased accidents in the vicinity of the junction due, amongst other reasons, to drivers behaviour;

- the design of the proposed shared cycle and pedestrian link from the site to Millers Close which decants users onto the carriageway and thereafter to negotiate a route to High Street via the pinch-point of the Millers Close carriageway which will experience an intensification in vehicle movements as a result of the development, leading to increased potential for accidents.*

The District Planning Authority therefore considers that the proposals will result in unacceptable highway dangers to users of the public highway in the vicinity of the site and that no mitigation measures have been proposed that would overcome such highway dangers. Consequently the District Planning Authority considers that the proposals are not in accordance with the guidance contained in paragraphs 32 of the NPPF and saved policies DEV.4 and COM.9 of the Stratford on Avon District Local Plan Review 1996-2011, and emerging Policy CS.25 of the Core Strategy.

The District Planning Authority considers that the benefits of the development do not outweigh the significant and demonstrable harm caused to highway safety taken together with other identified harm to: the character and visual appearance of the locality; the setting of the Conservation Area; the setting of the listed building Cress Farm House and the loss of Grade 2 Agricultural Land. The development does not therefore constitute sustainable development.

2. In the absence of a legal agreement to secure appropriate planning obligations, objection is raised to the proposals as being contrary to Saved Policies COM.13, IMP.4 and IMP.5 of the Stratford on Avon District Local Plan Review 1996-2011 and emerging Policy CS.26 of the Core Strategy.

Main Issue

5. From all that I have seen and read the main issue in this case is whether, with due regard to the development plan, the National Planning Policy Framework (the Framework), the proposal would be a suitable sustainable form of development.

Reasons

Policy Background

6. The Framework seeks to boost significantly the supply of housing and paragraph 49 of the Framework indicates that housing applications should be considered in the context of the presumption in favour of sustainable development and that policies for the supply of housing will not be considered up-to-date where local planning authorities cannot demonstrate a five year supply of deliverable housing sites. This in turn triggers paragraph 14 of the Framework which explains that where this is the case, planning permission should be granted unless the adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the Framework's policies, taken as a whole.
7. The Council has conceded that it does not have a deliverable five year housing land supply and accordingly, its policies for the supply of housing are out of

date in accordance with the Framework. Nevertheless, the Stratford-on-Avon District Local Plan Review 2006 (Local Plan) Policies DEV.4 and COM.9, referred to in the Council's resolution as set out above, do not restrict the supply of housing and are broadly consistent with the objectives of the Framework; therefore I afford them significant weight.

8. The Council has also made reference to policies in the emerging Core Strategy. However, this plan is subject to change and therefore I have afforded its policies only limited weight.

Sustainable development

9. Paragraph 7 of the Framework identifies three dimensions to sustainable development – economic, social and environmental – whilst Paragraph 12 sets out twelve core planning principles that should underpin planning decision taking. In combination, these two paragraphs provide a useful context in which to examine sustainability. I shall apply them in assessing the benefits and adverse impacts of the proposed development.

a) The economic dimension

10. In terms of the economic dimension, the government has made clear its view that house building plays an important role in promoting economic growth. The Framework does not, however, identify a straightforward correlation between the construction of houses and ensuring economic growth. Rather, in describing the “economic role” that is to be played by the planning system, paragraph 7 identifies the need to identify and co-ordinate development requirements, including the provision of infrastructure.
11. Although housing development does not equate to economic development, the proposal would nevertheless provide modest economic benefits, in providing employment and trade in building materials, which would help to foster economic growth. In the longer term, the level of disposable income would also be increased with some commensurate growth in the demand for local goods and services.
12. The appellants rightly point out that the future occupiers of the proposed new houses would provide more custom for the existing shops and services in Welford-on-Avon, thereby contributing to the local economy.
13. I have no evidence before me that the proposed development would result in any adverse economic impacts and I conclude that, for this dimension of sustainable development, the balance must clearly be in its favour.

b) The social dimension

14. The principal social benefit of the proposed development would be the provision of additional housing in an area where the on-going Local Plan process has demonstrated that there is an, as yet unresolved, shortage of provision. In the light of the Framework's priority to ‘...boost significantly the supply of housing...’, the additional dwellings to be provided must carry very substantial weight in my decision.
15. There is also the appellants' commitment, reflected in the signed and dated Section 106 agreement, that 35% of the proposed dwellings would be affordable. Significant weight must be given to this aspect of the development.

16. Nonetheless, these benefits have to be considered in the context of the implications for Welford-on-Avon itself: as paragraph 9 of the Framework makes clear, pursuing sustainable development involves seeking positive improvements in people's quality of life. Furthermore, the Framework does not identify a straightforward correlation between the construction of houses and ensuing social benefit. Paragraphs 54 and 55 explain that housing development should reflect local needs, and be located where it will enhance or maintain the vitality of rural communities.
17. Substantially increasing the number of residences in a settlement without proportionate increases in the provision of local shops, infrastructure, employment opportunities and other local services risks eroding community cohesion. This type of impact is always hard to quantify, given the difficulties of obtaining tangible evidence. The Council recognises Welford-on-Avon as appropriate to accommodate a limited scale of future development and as one of a number of settlements offering a reasonable range of accessible services and facilities to meet some or many of the everyday needs of local residents. In simple terms, it is a consistent theme of the existing and emerging Development Plan for the area that while Welford-on-Avon has some capacity to accommodate additional housing, that capacity is not limitless.
18. The emerging Core Strategy, in its current form, seeks to impose a specific numerical limit on the amount of additional development that would be acceptable in the district's Local Service Villages, Category 2 settlements, which includes Welford-on-Avon. From the evidence before me this limit has already been reached for this village. However, I am required to determine whether the current appeal should succeed, in advance of the conclusion of the new Local Plan's adoption process, and in the context of an existing Local Plan that has not secured a sufficient supply of housing to meet the district's five-year housing requirement.
19. The Framework sets out the approach to be taken in such situations, in terms of applying the "presumption in favour of sustainable development" as described at paragraph 14. That approach is to weigh the adverse impacts and the benefits of the proposed development in the balance, and to grant planning permission unless the adverse impacts significantly and demonstrably outweigh the benefits.
20. The appeal scheme would constitute a sizeable expansion, and I accept the Parish Council's argument that it would take the existing community some time to adapt, and may have adverse consequences for the social and cultural wellbeing of existing residents. This is not a consideration which could on its own outweigh the pressing need to address the current housing shortfall. But I take the point that Welford-on-Avon, like other communities, expects (quite rightly) that decisions about its capacity to accommodate more housing should be taken through the Local Plan process, which enables detailed assessment and comparison with the capacity of the district's other settlements.
21. In this context, a considerable quantity of new housing being allowed on appeal in advance of that process could lead to hostility and resentment being directed towards the occupiers of the new housing. I appreciate that not all existing residents would feel that way, and that Welford-on-Avon has in the past proved itself able to adapt admirably to new development. Nevertheless, I consider

the potential adverse impact on the existing community to be a consideration which must be weighed in the overall balance.

c) Environmental dimension

22. With respect to the environmental dimension of sustainable development, the elements that I consider to be especially relevant to the proposed development are: highway safety; character and appearance; drainage; and biodiversity.

c)(i) Highway safety

23. As I saw on my site visit the surrounding area is rural in character with limited lengths of pedestrian footways and street lighting. The roads vary in width and alignment and appear as an integral part of the landscape and reinforce local identity.
24. The appeal site currently connects to Millers Close via a service road which has two junctions on to Millers Close. The appellant proposes to retain the vehicular access adjacent to the side 8 Millers Close and use the second access as a pedestrian and cycle link. Concerns have been raised by the Highway Authority and third parties regarding driver visibility at the proposed junction and the suitability of the shared pedestrian/cycle link.
25. As I saw on my site visit visibility to the east, at the proposed junction with Millers Close, is interrupted by No.8's existing boundary fence and brick gate pillars. Therefore, to enable a car driver to see other road users on Millers Close, the front of the vehicle would protrude some way onto the highway when attempting to manoeuvre.
26. Furthermore, to the west of this junction Millers Close has a pinch point on its approach to the junction with High Street, where the road narrows to a single carriageway. This restriction on road width causes vehicles to stop, wait and sometimes reverse, for other motorists to complete their manoeuvre.
27. Adding to this already complex situation would be those people using the proposed shared cycle/pedestrian link. As there is no designated pedestrian or cycle route along this section of Millers Close towards High Street, users of the link would have to cross the highway, being mindful of traffic using the nearby junctions, in order to access footpaths and village facilities.
28. It is not disputed that the proposed development would create additional traffic movements on Millers Close and at the junction with High Street. Whilst I agree with the appellant that the increase would be modest, due to the restricted visibility at the junction with Millers Close and that the junction with High Street is so severely restricted by the 'pinch point' any additional traffic movements, however numerically small, would increase the amount of potentially hazardous manoeuvres that road users would have to undertake. To my mind this would be significantly detrimental to highway safety.
29. I acknowledge the appellant's comment that Millers Close could be widened in the vicinity of the appeal site, that recorded vehicle speeds are below the 30mph limit and that no injury accidents have been recorded. However, I am not persuaded that this junction arrangement would be satisfactory given the character of the road and the necessity of the highway to safely accommodate other users, such as cyclists and walkers. There would be conflict in this regard with Local Plan Policies COM.9 and DEV.4, which require, amongst other

things, that development proposals ensure the safety of all road users and pedestrians and that the layout and design of development proposals will be expected to incorporate facilities for walking and cycling which are safe and convenient to use.

c)(ii) Character and appearance

30. The appeal site is located on an area of land currently used as a plant nursery, with existing large glasshouses and outbuildings. The site is bounded by mature hedgerows and trees which give the area a verdant character.
31. The centre of Welford-on-Avon is a designated Conservation Area which extends to the western boundary of the appeal site. Also abutting the appeal site to the west, but separated from it by a substantial hedge, is a Grade II Listed Building, Cress Farmhouse.
32. The Conservation Area, which encompasses 19th Century development together with the historic core of Welford, is based on the properties along High Street, Church Street and Chapel Street and includes the village greens at each end of High Street. The buildings, and their layout, reflect the organic evolution of this rural settlement from which its significance, as a heritage asset, derives. I agree with the appellant that the Conservation Area and the neighbouring Listed Building are not experienced or appreciated as heritage assets in any views from, or across, the appeal site, and the site is not integral to an understanding or appreciation of these heritage assets. As a consequence, I am satisfied that the development proposed would not result in any harm to their significance.
33. I saw that most of the settlement of Welford is not readily visible from the appeal site, or its rural surroundings. The nearest properties within the village are along Millers Close. Development hereabouts is generally low density, most properties having generous gardens, which contribute to the verdant character. As a consequence, there is no impression of a hard built up edge here. Rather, this part of the village is well contained visually, the current perception of the edge of the settlement being unobtrusive and rural in character.
34. Whilst layout is a reserved matter, the density of development proposed would, to my mind, contrast to the established pattern at the edge of the village and it would not be seen as a 'rounding off', or an appropriate or sympathetic expansion of the village. Moreover, I am concerned that the limited plot sizes would reduce the extent of any landscaping which could be used to assimilate the development into the village character.
35. The proposal would therefore be at odds with the Framework which establishes, at paragraph 17, that 'planning should take into account of the different roles and character of different areas'.

c)(iii) Drainage

36. The appeal site is located within Flood Zone 1, where residential development is considered acceptable in principle. Clearly great care will be needed, at the detailed design stage, to ensure that any drainage features are properly integrated into the appeal site and that they do not impact on surrounding ground waters. In reaching this opinion I attach weight to the fact that the Council's Drainage Advisor, subject to planning conditions relating to drainage,

expressed no objection to the scheme. I find no harm, therefore, in this regard.

c)(iv) Biodiversity

37. The appellant's 'Preliminary Ecological Survey' notes that the appeal site would hold some value for invertebrates, small mammals, and foraging birds. However, no evidence of bats, reptiles or other protected species were found. Whilst a number of residents have commented on the range of wildlife in the local area, no technical evidence has been provided to challenge the survey's findings. Furthermore I note that the County Ecologist raises no objections to the proposals, subject to planning conditions. Accordingly, I see no reason to take issue with the conclusions set out in the survey.
38. The balance in favour of the environmental dimension of sustainable development is not as apparent as the economic dimension. Clearly the benefits of the development have to be set against the harm to highway safety and character and appearance. The lack of harm I have found in respect of biodiversity and flooding are neutral in the final balance as this is expected of all developments.

Other Matters

39. The signed Section 106 Unilateral Undertaking (UU) is a legal covenant and once it comes into effect its terms are binding on the person(s) against whom it is enforceable. In this case the provisions for: securing 35% affordable housing on the site, and; contributions towards education facilities in the locality, open space provision, highways, libraries, Public Rights of Way and healthcare, are all legitimately required by Local Plan Policies COM.13, IMP.4 and IMP.5.
40. The UU meets the tests set out in the current CIL regulation 122 in that it is: 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. Additionally I am satisfied that the agreement would provide appropriate financial contributions to necessary infrastructure generated by the proposed development and ensure the agreed proportion of affordable housing.

The overall planning balance

41. The Framework explains, at paragraph 12, that its existence does not change the statutory status of the Development Plan as the starting point for decision making. This means that a determination must be made in accordance with the Development Plan unless material considerations indicate otherwise.
42. At the heart of the Framework is a presumption in favour of sustainable development, which should be seen as the golden thread running both plan-making and decision-taking. I recognise, in this regard, that Welford-on-Avon is a relatively sustainable village, in terms of its facilities and accessibility. However, the Framework is based upon a much wider definition of sustainability, encompassing its economic, social and environmental dimensions, which go beyond a settlement's sustainable location.
43. I have concluded that in the context of the acknowledged significant shortfall in the district's housing supply, the fact that the proposed development would

help to remedy that shortfall, including the need for affordable housing, carries considerable weight in its favour. An additional benefit, of some weight, would be the economic benefits of constructing additional housing. The planning obligation includes contributions to the library service, public open space and to the maintenance and improvement of existing public footpaths in the vicinity, which could also benefit the wider community.

44. Nevertheless, I consider that permitting the proposed 30 new dwellings would have an adverse impact, of some weight, on the character and appearance of the local area, which impact would be compounded by difficulties in terms of social cohesion of the existing community at Welford-on-Avon. Furthermore, I have found the severe harm to highway safety constitutes an adverse impact of great weight.
45. Weighing all of these many considerations in the balance, I conclude that when assessed on its own merits, the adverse impacts of permitting this particular proposal would significantly and demonstrably outweigh the benefits. As a consequence, I find that the appeal scheme is not sustainable development and thus, the presumption in favour, set out at Framework paragraph 14 of the Framework, does not apply.

Conclusions

46. I have considered, in some detail, the impacts of the development proposal. I have found that the adverse impacts would significantly and demonstrably outweigh the benefits, which leads to the conclusion that planning permission should be refused.
47. For the reasons set out above I conclude, on balance, that the appeal should not succeed.

Joanne Jones

INSPECTOR