
Appeal Decision

Hearing held on 16 June 2015

Site visits made on 15 and 16 June 2015

by Thomas Shields MA DipURP MRTPI

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

Decision date: 31 July 2015

Appeal Ref: APP/J3720/W/15/3004725

**Land off The Burrows, Newbold-on-Stour, Stratford-on-Avon,
Warwickshire, CV37 8UP**

- 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 Bloor Homes Midlands Limited against the decision of Stratford-on-Avon District Council.
 - The application Ref 13/03317/OUT, dated 20 December 2013, was refused by notice dated 27 November 2014.
 - The development proposed is outline planning application (with all matters reserved save for means of access from the Burrows) for the erection of up to 35 dwellings with associated garages, parking, landscaping and infrastructure.
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Decision

1. The appeal is allowed and planning permission is granted (with all matters reserved save for means of access from the Burrows) for the erection of up to 35 dwellings with associated garages, parking, landscaping and infrastructure at land off The Burrows, Newbold-on-Stour, Stratford-on-Avon, Warwickshire, CV37 8UP in accordance with the terms of the application, Ref 13/03317/OUT, dated 20 December 2013, subject to the schedule of conditions attached to this decision.

Procedural Matters

2. The application was submitted in outline form with details of access provided for consideration now. Details of appearance, landscaping, layout and scale are reserved for later consideration.
3. A 1:2500 location plan (M1275_LOC_01A) showed two parcels of land; the first with a red line being the extent of the proposed development, and the second with a blue line being a separate parcel of open land to the north of the appeal site. This second parcel of land was referred to throughout the hearing as the 'blue land'. For clarity, I will refer to it as such in this decision.
4. Also, an illustrative 'Development Framework' plan (M275-DF-01 Rev A) was submitted, together with a Design and Access Statement, a Transport Statement, an extended Phase 1 Habitat Survey, a Flood Risk Assessment, and other supporting documents. As part of the appeal process the appellant also submitted a Landscape and Visual Impact Appraisal (LVIA), and a draft outline Ecological Management Scheme (EMS). Taken together, all of these documents

give an indication of the character of the proposed development and its likely impact.

5. At the Hearing the Council confirmed that it had withdrawn all but its second reason for refusal as set out in the Council's Decision Notice. This reason related to the effects of the development on the rural aspect and landscape. In addition, a jointly agreed SOCG¹ sets out the issues that are in dispute between the Council and the appellant.
6. A draft Section 106 Agreement was provided at the Hearing, and which was completed and signed shortly afterwards. I return to this later in my decision.
7. An unaccompanied site visit was made to the site and viewed from a number of viewpoints in the wider area on the day prior to the Hearing, and it was agreed that a further accompanied visit to the site was not necessary. However, I made an accompanied visit to view the blue land from the rear of an adjoining residential property on Mill Lane.

Main Issue

8. The main issue in this appeal is whether or not the proposed development would be sustainable, having particular regard to the effect on the character and appearance of the area in terms of its visual impact and impact on landscape character.

Reasons

Character and appearance

9. Newbold-on-Stour is an attractive village located close to the west bank of the meandering river Stour, and is divided along its length by the main A3400 Stratford Road which runs through the settlement. It has a population of approximately 500 people, with facilities which include a village shop with post office, a church, public house, village hall and primary school. It is identified as a Local Centre Village in the adopted Stratford-on-Avon District Local Plan Review (2006) (LP), and as a Category 3 Local Service Village (LSV) in the emerging Core Strategy (CS).
10. The appeal site is a rectangular parcel of heavily overgrown land at the south-east edge of the village and lies immediately adjacent to the A3400, separated from it by established tall hedgerow. It is bordered to the north-west by a modern housing estate, to the south by a single track road (Mill Lane), and to the north-east by several residential dwellings accessed from Mill Lane. Land on this side of the A3400, including the appeal site, slopes down towards the river Stour, beyond which the land levels to the east and north-east of the river rise significantly.
11. Although overgrown and not widely visible from beyond its boundaries, the appeal site nonetheless has value as part of an undoubtedly attractive landscape setting. However, it does not form part of a designated Conservation Area, Green Belt, or other similarly recognised and protected area. Consequently, I consider that it is not of such a high level of landscape value warranting special protection as envisaged by paragraph 109 of the National Planning Policy Framework (2012) (the Framework).

¹ Statement of Common Ground from the appellant and Stratford-on-Avon District Council, 27 May 2015.

12. There was some disagreement between the parties as to whether the form of the village should be considered as nucleated or linear, the Council preferring the former taken from a description of the Feldon Regional Character Area in the Warwickshire Landscape Guidelines (1993) (WLG). The Council argues, amongst other matters, that the proposed development would harm the evolved character and appearance of the village by elongating it (by approximately 12%) beyond what could reasonably be described as nucleated.
13. The WLG is a county level landscape character assessment, and provides appropriate guidelines for conservation and new development. In addition, the Stratford-on-Avon District Design Guide (DDG) was adopted by the Council as SPG² in 2001. It identified the site as being within the Stour Valley Character Area, and also contained appropriate advice for conserving the distinctive local qualities of the area. Accordingly, I attach some weight to the WLG and DDG in reaching my decision.
14. However, a more recent study is the Stratford-on-Avon District Landscape Sensitivity Study for Local Service Villages (2012) (LSS). It is a more localised and detailed assessment than the WLG and DDG, and forms part of the Council's evidence base for the emerging Core Strategy. As such, I attach substantial weight to it.
15. The LSS identifies the appeal site as being within a larger land cover parcel (Ne04) having overall a medium sensitivity to housing development, and comprising gently sloping land on the lower valley sides of the Stour with 3 distinct components. Of these 3 components, the LSS describes the appeal site as overgrown and being the least sensitive within the zone as *"..it is well screened and of limited intrinsic sensitivity. This would be the only part of the zone able to accommodate housing provided that the existing boundary screening is maintained and possibly reinforced with trees"*. Having regard to my own observations of the appeal site and the surrounding area, I have no reason to disagree with the findings of the LSS.
16. Moreover, while I acknowledge the Council's concern that the proposal would elongate the village, I consider that it would not do so excessively; and in any event no further to the south than Mill Lane where there are already existing residential properties.
17. Given that the LSS indicates that the appeal site is the least sensitive component within NE04 to housing development, and notwithstanding the Council's opposing position with regard to some elements of the appellant's LVIA, I consider that the appellant's assertion that the appeal site should be regarded as being of medium to low sensitivity, and that it would thereby be the least sensitive in the village to receive housing development, is well founded.
18. The Council contends that the proposed development would be prominent and readily visible from shorter distance views including from the road network, and also that the existing tall boundary vegetation would be difficult to retain in the longer term as an enduring form of screening.
19. However, visibility in this context would be capable of being controlled to some degree through layout, scale and landscaping details required at reserved

² Supplementary Planning Guidance

matters stage, and planning conditions could control land and slab levels for the individual housing units. I also note that the adjacent housing estate is well screened from views from the road network by the boundary vegetation which separates it from the A3400. In this regard I see no reason why the boundary vegetation at the appeal site could not similarly be retained and maintained. Consequently, I consider overall that there would be limited visibility of the proposed development from shorter distance views including from the road network.

20. Longer distance views from the west of the village would afford very little if any visibility due to the existing vegetation along the boundary with the A3400 and the drop in land level behind it towards the river Stour.
21. When viewed from various points across the valley slopes to the north-east along Shakespeare's Way the proposed development would be seen as somewhat distant. In addition, it would extend no nearer to those viewpoints than the adjacent housing estate. I consider that these longer views would most likely be of the upper parts and roofs of two storey buildings, as is the case for much of the development in Newbold-on-Stour between the A3400 and the river. Hence, two storey development on the appeal site would be no more visible in these longer views than houses on the adjacent estate, and would read in the wider landscape as the contained edge of the built form of the village; separated from the surrounding paddocks further south and open countryside to the west, by Mill Lane and the A3400 respectively.
22. I note the Council's concern that due to the proposed density of development, trees of any significant size would not be able to be accommodated within the site, hence rendering the site more visibly prominent and urbanising in the landscape. However, although the layout of the development and landscaping are reserved matters, I consider that the indicative plans submitted are sufficient to demonstrate that appropriate tree planting and landscaping would be possible. Also, the proposal is for up to 35 dwellings, and the height of the dwellings can be controlled through appropriate planning conditions as previously described.
23. Taking all of the above factors together I am satisfied that the visual impact of the proposed development from both short and longer distance views would be acceptable.
24. In conclusion, I consider that the proposed development, subject to appropriate planning conditions, would not have any significant adverse effect on the character and appearance of the area in terms of its visual impact and impact on landscape character. It would thereby be in accordance with LP Policy PR.1 which requires all proposals to respect and, where possible, enhance the quality and character of the area.
25. It would also comply with emerging Policy CS.5 which requires the landscape character and quality of the District to be maintained by ensuring that development takes place in a manner that minimises and mitigates its impact and, where possible, incorporates measures to enhance the landscape.
26. Policies PR.1 and CS.5 are also consistent with a core planning principle of the Framework³.

³ National Planning Policy Framework (2012), paragraph 17, 5th bullet.

Other Matters

27. Notwithstanding the withdrawal of the Council's first reason for refusal and the agreed SOCG, the effect of the proposal on biodiversity, particularly in relation to wildlife habitat, was a significant concern for some local residents and other interested parties.
28. It is clear to me that construction of development of the type and scale proposed would inevitably result in some impact on biodiversity. In this regard, I note that the County Council's Principal Ecologist was consulted on the application and the appeal, and does not object to the proposal subject to the implementation of a scheme for ecological enhancement and management (EMS). Also, there is no dispute between the main parties that the impact on biodiversity could be satisfactorily mitigated on-site and overall enhanced on the blue land through the implementation of an EMS.
29. An appropriate condition to ensure that the EMS would be capable of being secured and implemented was discussed during the Hearing, and I am satisfied that the condition (No. 19) would meet the six tests for planning conditions as set out at paragraph 206 of the Framework. Consequently, I conclude that appropriate on-site mitigation can be secured and that the enhancement of the blue land would lead to a gain in biodiversity overall. As such, the proposal would accord with paragraph 118 of the Framework. Hence the withholding of planning permission on this basis would not be justified.
30. Another local concern expressed was that in context with the Council's earlier resolution to grant planning permission at the Mansell Farm site in the village, the appeal proposal for 35 dwellings would conflict with the emerging CS with regard to the quantum and intended dispersed distribution of housing in respect of LSVs in the District. However, the emerging CS policies in respect of housing supply and distribution amongst villages are at a stage where I can attribute only limited weight to them. In any event, I cannot be sure that other approved schemes would be built out and each proposal falls to be assessed on its individual merits.
31. In addition to the above concerns, other matters raised include; inaccurate reporting of the site history; the adequacy of local infrastructure, services and facilities; lack of employment opportunities; lack of open space; poor access; drainage; traffic generation and highway safety; and increased pollution. Some of these matters can be controlled by planning conditions and the provisions of the completed S106 Agreement. Moreover, they were identified and considered in detail by the Council who at appeal stage acknowledge that they would not amount to reasons to justify withholding planning permission. Subject to the provisions of the S106 Agreement and the imposition of planning conditions, I see no compelling reasons to take a different view.

Section 106 Agreement

32. The S106 agreement requires 35% of the proposed dwellings to take the form of affordable housing. It also requires financial contributions towards off-site open space provision; secondary education provision; library services; the provision of a Traffic Regulation Order (TRO) and a sustainable travel pack for each dwelling.

33. The costs of the TRO and sustainable travel packs are recognised and agreed sums and hence are specified in monetary figures. Since the proposal is in outline form, the education, open space, and library contributions are necessarily produced from a population based formula, reflecting the currently uncertain composition of household occupiers likely to result from the development.
34. The Council's justification of the contributions demonstrates that they would be directly related to the development, fairly and reasonably related in scale and kind, and necessary to make the development acceptable in planning terms. This is not disputed by the appellant and I have no reason to disagree. The Council also confirmed that none of the contributions sought would be made to a pool of more than five contributing developments.
35. I therefore conclude that the obligations would comply with the requirements of Regulations 122 and 123 of the Community Infrastructure Regulations 2010.

Planning balance

36. The emerging CS policies in respect of housing supply and distribution amongst villages are at a stage where I can attribute only limited weight to them.
37. Moreover, it is common ground between the two main parties that housing supply policies in the LP are out of date because the Council is unable to demonstrate a five-year supply of deliverable housing sites, and also because the LP is intended only to provide for the period up to 2011. In these circumstances, the main parties agree, and I concur, that the presumption in favour of sustainable development at paragraph 14 of the Framework is engaged.
38. For decision-taking, this means 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 planning 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.
39. The Framework sets out 3 inter-linked dimensions to sustainable development; social, economic and environmental. In social terms the proposal would provide for up to 35 dwellings, 35% of them as affordable housing, at a time when there is currently an under-supply of market and affordable housing in the District. I consider this to be a significant social benefit of substantial weight.
40. In economic terms, the proposal would provide construction jobs, albeit temporarily, and would result in some growth in the economically active population with increased household expenditure, some of which is likely to be spent on local services.
41. In environmental terms I have found that the proposal would not result in any significant harm to the character and appearance of the area in terms of landscape character and visual impact. The appeal site would also be reasonably well located in terms of its accessibility to the village facilities and access to public transport. Also, a suitable layout at reserved matters stage, together with appropriate landscaping and boundary treatment, would provide

a high quality environment for future residents. The ecological enhancement of the blue land would improve biodiversity and be of benefit to both existing and future residents.

42. Overall, I consider that the proposed development would be sustainable in social, economic and environmental terms, and that there would be considerable benefits resulting from it, as previously described, which are not significantly and demonstrably outweighed by adverse impacts when assessed against the policies in the Framework taken as a whole.

Conditions

43. Potential conditions were discussed at the Hearing which I have considered against the advice in the national Planning Practice Guidance and retained Annex A (model conditions) of former Circular 11/95: Use of Conditions in Planning Permission. As a result, a number of those proposed have been amended and amalgamated for clarity and elimination of duplication, and a further condition added with the agreement of the parties.
44. It is reasonable and necessary to require reserved matters approval within the standard timetables. For clarity, conditions specifying the approved drawings and the maximum number and height of dwellings to be built are also imposed.
45. The reserved matters do not include details of any changes in land contours or of proposed slab levels which might be required. Also, there is an absence of detail about surface and foul water drainage, refuse and recycling provision, fire hydrants, and external lighting. I have imposed conditions to ensure the submission and implementation of such details. Conditions for contaminated land investigation and remediation works, and archaeological investigation work, are also required.
46. A construction method statement is necessary because of the proximity of existing dwellings. Conditions such as those requiring the provision of renewable energy, Lifetime Homes standards, water butts, and play equipment are necessary to achieve a sustainable form of development and to comply with LP policies.
47. A condition to secure the protection of existing trees and hedgerow on the site is necessary in the interest of visual amenity and to safeguard the character and appearance of the area. For reasons set out earlier, an ecological enhancement and management scheme (EMS) is required in the interests of biodiversity.

Overall Conclusion

48. Representations were made to the effect that the rights of existing local residents under the Human Rights Act 1998 would be violated if the appeal were allowed. However, I do not consider this argument to be well-founded because the proposed development would not cause unacceptable harm to the living conditions of local residents. The degree of interference with individuals' rights would be insufficient to give rise to a violation of rights under the Act.
49. I have had regard to the strength of local opposition to the scheme, including from the local MP, but consider this does not justify the refusal of planning permission for the scheme, given that I have identified it would not on balance result in demonstrable harm.

50. For all the above reasons, and having regard to all other matters raised, I conclude that the appeal should be allowed.

Thomas Shields

INSPECTOR

(Attached – Conditions Schedule)

Richborough Estates

CONDITIONS SCHEDULE

- 1) The development hereby approved shall be carried out in accordance with the following plans and drawings: 130153, M1275_LOC_01A, M275-DF-01 Rev A, P834-101.
- 2) No part of the development hereby permitted shall be commenced until approval of the details of the layout, scale, appearance and landscaping (hereinafter called the reserved matters) has been obtained from the local planning authority in writing. The development shall be carried out as approved.
- 3) The development hereby permitted shall be begun before the expiration of 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The maximum number of dwellings to be erected on site on site shall be 35.
- 5) Prior to commencement of development details of existing and proposed land contours, and proposed finished floor levels for the dwellings, shall be submitted to and approved in writing by the local planning authority. The development shall be carried out as approved.
- 6) Any dwelling erected as part of the development hereby permitted shall be a maximum of 9m to ridge height from finished ground floor level.
- 7) No demolition, site clearance or building operations of any type shall commence, or equipment, machinery or materials brought onto site, until a scheme for the protection of all existing trees and hedges has been submitted to and approved in writing by the local planning authority. The approved scheme shall be kept in place until all parts of the development have been completed and all equipment, machinery and surplus materials have been removed from the site.
- 8) There shall be no external lighting on the site at any time other than in accordance with an approved lighting scheme which shall have first been submitted to and approved in writing by the local planning authority.
- 9) No development shall take place until a scheme for the provision of energy from on-site renewable sources, and/or a fabric first design sufficient to replace a minimum of 10% of the predicted carbon dioxide emissions from the total energy requirements of the development above that of current Building Regulations at the time of commencement, has been submitted to and approved in writing by the local planning authority. The design features, systems and equipment that comprise the approved scheme shall be fully implemented in accordance with the approved plans and particulars prior to the development first being brought into use, or alternatively, in accordance with a phasing scheme which has been approved in writing by the local planning authority, and shall be retained thereafter.
- 10) No dwelling that has a downpipe within the development hereby permitted shall be 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.
- 11) Prior to the first occupation of each dwelling hereby permitted, the developer shall provide 3 bins for the purpose of refuse, recycling and green waste for the dwelling, in accordance with specification details which shall have first been submitted to and approved in writing by the local planning authority.

12) The development hereby permitted shall not commence until drainage plans for the disposal of surface water and foul sewage have been submitted to and approved in writing by the local planning authority. The drainage scheme shall include sustainable drainage and shall as a minimum provide:

1. Calculations of pre-development and post-development run off rates.
2. A fully labelled network drawing showing all dimensions of all elements of the proposed drainage system.
3. Detailed network calculations that correspond to the above drawing.
4. Modelled results for critical storms, including as a minimum 1yr, 30yr, and 100yr +30% cc events of various durations. A submerged outfall should be used for the modelling.
5. An electronic copy of the model shall be provided to the Flood Risk Management team at Warwickshire County Council (VVCC).
6. Any documentation relating to the surface water discharge rate and/or consents required.
7. Evidence of overland flood flow routing in case of system failure. This should include the flow routes and depths/velocities of the flows.
8. If the drainage network is to be adopted, evidence of an agreement with the adopting body.
9. A Maintenance Plan, including contact details, giving details of how the entire surface water system, including any SuDS features shall be maintained and managed after completion for the life time of the development.
10. A timetable for the implementation of the drainage system.

The development shall be fully implemented in accordance with the approved details prior to the first occupation of the dwellings hereby approved, and shall thereafter be maintained in accordance with the approved details.

13) No part of the development hereby permitted shall be commenced within the site until the applicant or agent or their successors in title have secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which shall have been submitted to and approved in writing by the local planning authority.

14) A detailed scheme for the provision, specification and siting of play equipment in the location approved as part of the reserved matters approval shall be submitted to and approved in writing by the local planning authority and installed in accordance with the details approved prior to the occupation of 50% of the dwellings.

15) No part of the development hereby permitted shall be commenced until a scheme for the provision of water supply and fire hydrants necessary for fire-fighting purposes 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 scheme has been installed.

16) A minimum of 50% of all new dwellings shall be designed and built to meet all relevant specifications of the Joseph Rowntree Foundation's 'Lifetime Homes' standards.

17) No development shall take place, including any demolition works, 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:

- i. the routing, access and parking of construction vehicles and those of site operatives and visitors
- ii. loading and unloading of plant and materials
- iii. storage of plant and materials used in constructing the development
- iv. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
- v. wheel washing facilities
- vi. measures to control the emission of dust and dirt during construction, and
- vii. a scheme for recycling/disposing of waste resulting from demolition and construction works.

18) (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 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.

19) The development hereby permitted shall not commence until an ecological enhancement and management scheme (EMS) for the application site and the land edged in blue on drawing M1275_LOC_01A ("the blue land") has been submitted to and approved in writing by the local planning authority. The EMS shall include:

- i. mitigation measures on the application site to reduce biodiversity loss and off-setting measures on the blue land to compensate for any net loss to biodiversity resulting from the development, including any site clearance and other preparatory works
- ii. a detailed schedule of mitigation measures and a compensation strategy on the application site and on the blue land to reduce and compensate for harm to protected species resulting from the development, including any site clearance and other preparatory works
- iii. the provision of arrangements to secure the delivery of any measures, including a timetable for their delivery
- iv. a management and monitoring plan which shall include for the provision and maintenance of any measures in perpetuity.

The written approval of the local planning authority shall not be issued before the arrangements necessary to secure the delivery of any offsetting measures have been executed. The scheme shall be implemented in full accordance with the requirements of the scheme or any variation so approved.

END OF SCHEDULE

Richborough Estates

APPEARANCES

FOR THE APPELLANT:

Miranda Rogers BSc (Hons) MSc MRTPI	Principal Planner, Stansgate Planning
Andrew Williams CMLI DipUD	Director, Define

FOR THE LOCAL PLANNING AUTHORITY:

Councillor Christopher Saint	Leader of Stratford-on-Avon District Council, Councillor for Shipston North Ward
Jamie Whitehouse	Senior Planner, Stratford-on-Avon District Council

INTERESTED PERSONS:

Dr Graham Thomas	Local resident
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DOCUMENTS SUBMITTED AT THE HEARING

1. Stratford-on-Avon District Council, proposed modifications, June 2015
2. Updated proposed condition 19, by Stratford-on-Avon District Council.
3. Correspondence regarding the Statement of Common Ground, housing needs of Newbold-on-Stour, and wildlife loss from the site, by Dr Graham Thomas. Correspondence from Tredington Parish Council, by Mr S. Unitt.
4. Statement regarding Stratford-on-Avon District Council's LSV dispersal policy, by Mr Len Grey (CPRE).
5. Email response from Stratford-on-Avon District Council to CPRE email, dated 8 June 2015.

DOCUMENTS SUBMITTED POST-HEARING

6. Cabinet Report and minutes dated 22 June 2015, regarding endorsement of consolidated modifications to the submitted Core Strategy, and adoption of policies at paragraph 3.4 on an interim basis, by Stratford-on-Avon District Council.
7. Executed S106 Agreement, dated 17 June 2015.