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# Appeal Decision

Site visit made on 12 December 2012

by **B.S.Rogers BA(Hons), DipTP, MRTPI**

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

Decision date: 24 January 2013

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**Appeal Ref: APP/H1840/A/12/2183239**

**Land at rear and including Kenosha, Foredraught Lane, Tibberton,  
WR9 7NH**

- 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 P.Meadowcroft against the decision of Wychavon District Council.
  - The application Ref: W/12/00085/OU, dated 12 January 2012, was refused by notice dated 3 April 2012.
  - The development proposed is an outline application for residential development of 11 dwellings.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The appeal site comprises the detached dwelling known as 'Kenosha', which fronts on to Foredraught Lane, together with its residential curtilage and an area of mown grassland to the rear, in the same ownership. The site area extends to some 0.47ha. There is residential development to the north, east and west and the site slopes gently upward toward the southern boundary, beyond which there is agricultural land.
3. The application form indicates that this is an outline application with details of access and layout submitted for consideration at this stage. The representations suggest there may be an intention for the layout to be considered a reserved matter but I have not seen any formal amendment of the position as set out in the application form. I shall therefore consider both access and layout as part of this proposal.
4. The appellant has submitted a Planning Obligation [PO] by way of a Unilateral Undertaking under S106 of The Act. In summary, the PO, dated 22 November 2012, provides for affordable housing, a cycling strategy contribution, an education contribution, an off-site public open space contribution, a recycling contribution, a sports contribution and a transport contribution.

## Main Issues

5. The main issues in this case are as follows:
  - i. Whether the proposal would be a sustainable form of development, having regard to its location and the housing land supply;

- ii. The impact on highway safety;
- iii. The adequacy of the drainage provision;
- iv. Whether the proposal makes adequate provision for mitigating any adverse impact it would have on local services and infrastructure; and
- v. The impact of the layout on the character and amenity of the area.

*Housing Land Supply and Sustainability*

6. The development plan includes the West Midlands Regional Spatial Strategy (2008) [RSS], the Worcestershire County Structure Plan (2008) [SP] and the Wychavon District Local Plan (2006) [LP]. There is an emerging South Worcestershire Development Plan [SWDP] but this has not been the subject of an examination and can therefore be afforded only limited weight. The National Planning Policy Framework [NPPF] has introduced a presumption in favour of sustainable development. It indicates that relevant policies for the supply of housing should not be considered up-to-date unless the LPA can demonstrate a 5 year supply of deliverable housing sites.
7. Tibberton is defined in the SWDP as a category 2 village and is considered to be moderately sustainable with access to a range of facilities and services. Indeed, the Council has identified a proposed housing site in the village. The appeal site has not been identified as a preferred option housing site in the SWDP and remains outside (albeit abutting) the settlement boundary for Tibberton, defined in the LP. Therefore, its development would conflict with Policy GD1 in the LP and D10 in the SP which are designed to achieve a sustainable settlement strategy and to protect the countryside.
8. The Council accepts that, in the light of a recent appeal decision in the District (Ref: APP/H1840/A/12/2171339), it does not have a 5-year supply of housing land. Although representations refer to recent approvals for housing in the Droitwich sub-area of the District, I have no convincing evidence that the overall situation has changed significantly. The housing supply policies in the development plan are therefore not to be considered up-to-date. Permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, or if specific policies in the NPPF indicate development should be restricted.
9. This appears to be a site which is well contained by housing on 3 sides and by substantial boundary hedgerows and its development would not appear unduly obtrusive in the wider landscape. The site is not so large as to be disproportionate in scale to the village as a whole. Housing development would bring some economic benefit in the form of employment. The fact that this is only an outline application is not a convincing reason to suggest that the site would not be deliverable within 5 years.
10. By way of the PO, the appellant has undertaken to provide 40% of the dwellings as affordable housing to help meet the acknowledged need for such provision in the parish.
11. The appellant has demonstrated that the site is accessible by a range of transport modes apart from the private car, including walking, cycling and bus. However, good walking and cycling access rely to a significant extent on suitable access links being made to the canal towpath on the north side of

Foredraught Lane, part of the National Cycle Network. This land is beyond the application site but the PO would commit funding to make provision for suitable links. It would also make a contribution to the County Transport Strategy, consistent with SP Policy T3 and LP Policy SR5.

12. The provisions of the NPPF indicate that significant weight should be attached to the benefit of providing new housing on this site to meet the acknowledged shortfall in the District and that permission should be granted unless material considerations indicate otherwise. On the first main issue, I conclude that this is in principle an acceptable and suitably sustainable site for housing. The circumstances are such that a determination on this particular issue should be made other than in accordance with the development plan and in favour of the appellant.

### *Highway Safety*

13. Foredraught Lane is an unclassified road of variable width between 4.0m and 4.3m, with no separate footpath for most of its length. It currently serves 43 dwellings, including Kenosha. The representations are broadly consistent with my site visit observations that traffic speeds are generally low. There is good forward visibility and therefore no undue problem with the use of the carriageway by pedestrians; the roadside verges allow for a margin of safety. Furthermore, the provision for access to the canal towpath would provide an alternative, segregated route for pedestrians and cyclists.
14. Foredraught Lane meets Plough Road, the main road through Tibberton, at a T junction with extremely limited visibility to the north. The Council's measurements indicate 85%ile speeds of 32mph in both directions along Plough Road.
15. The development would result in a net increase of 10 dwellings. Although the actual number of additional vehicles generated by the proposal would appear to be modest, so severe is the substandard nature of the junction that I regard the additional traffic as significant. Although there is, to date, no record of personal injury accidents at the junction with Plough Road, the traffic generation arising from the new dwellings appears to me to unduly increase the risk of such an incident.
16. Turning to the junction of the proposed new site access road with Foredraught Lane, there is some doubt that the proposed 2.4m x 43m visibility splays can be achieved within the highway boundary. The appellant's traffic consultants have produced a revised plan with reduced visibility splays which appear acceptable to the Council. However, this plan does not form part of the planning application before me and, in any event, does not appear to address how the new access and footway would interact with the existing parking bays which exist outside, and on either side of, the appeal site entrance.
17. I conclude that the proposal would lead to an undue reduction in highway safety at the Foredraught Lane and Plough Road junction and would not provide a suitable and practical access to Foredraught Lane.

### *Drainage*

18. The appeal site lies within Flood Zone 1, in which residential development is, in principle, appropriate. The NPPF makes it clear that, when determining applications, it should be ensured that development would not increase flood

risk elsewhere. The preferred option for surface water drainage is normally via soakaways. However, the ground conditions here are unsuitable. Therefore, it is proposed to drain surface water into the culvert/ditch in the NE corner of the site, with attenuation designed to limit the increased run-off to the equivalent green field run-off rate.

19. It is apparent from the representations that the watercourse in question is already prone to flooding, affecting nearby residential property. Great reliance is therefore placed upon the proposed attenuation measures, the failure of which could have serious consequences for local residents adjacent to the watercourse. I understand that the surface water drainage system, as proposed, would not be considered suitable for adoption and this could have adverse consequences for its maintenance.
20. Both the Council and the Severn Trent Water Authority have indicated a preferable alternative of taking surface water run-off to the nearby canal by way of a system which is capable of being adopted. This would avoid the risk of overloading the watercourse to the NE by way of run-off from the appeal site.
21. To my mind, the proposed drainage system would lead to an undue risk of flooding residential property, particularly when there appears to be a preferable and feasible alternative of draining to the canal.

#### *Local Services and Infrastructure*

22. The Council's reason for refusal relating to infrastructure has been somewhat overtaken by the recent submission of the PO, as outlined in para.4 above. The Council has made no adverse comment about either the legal effectiveness or the substance of the PO. To my mind, it accords with the relevant tests set out in the CIL Regulations and the contributions are appropriately justified by saved LP Policies GD3, SP5, COM2, COM12 and IMP1, together with relevant supplementary planning guidance.
23. I therefore conclude that the PO would contribute to local services and infrastructure in a manner proportionate to the scale and impact of the proposed development.

#### *The Layout*

24. The NPPF points to the importance attached to the design of the built environment. Developments should not only function well but should establish a strong sense of place and respond to local character. There appears to have been little attempt to reflect these principles in the rather humdrum layout which appears to have the character of a suburban housing estate.
25. Furthermore, I am concerned that Plots 2 and 3 would be sited so close to the substantial hedgerow along the eastern boundary, which appears to me to be far more substantial than indicated on the plan, as to compromise its visual and ecological contribution to the character of the area.
26. I conclude that the layout as submitted would be unduly harmful to the character and amenity of the area.

*Other Matters*

27. I have considered the impact of the development on the occupants of Brindley and Tonlyn, on either side of the site access. Whilst I accept that there would be some additional noise and disturbance from vehicular traffic, it appears to me that the gap where Kenosha now stands is of sufficient width to enable comprehensive screening to be provided in order to mitigate the adverse impact. I have also looked at the impact on neighbouring property to the east and west of the site. However, so long as the boundary vegetation was properly surveyed and retained (see paras.9 & 25 above), I see little cause for concern.
28. I have taken account of all other matters raised but none are of sufficient importance as to affect my conclusion.

*Overall Conclusion*

29. I have attached considerable weight to my finding that the site is appropriate in principle for residential development and accept that permission should be granted unless material considerations indicate otherwise. However, there are serious disadvantages to the proposal in respect of highway safety, surface water drainage and in the quality of the layout, sufficient for me to conclude that in this case the appeal should fail.

*B.S. Rogers*

Inspector

Richborough Estates