



Appeal Decision

Site visit made on 28 September 2015

by **G D Jones BSc(Hons) DMS DipTP MRTPI**

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

Decision date: 20/10/2015

Appeal Ref: APP/J3720/W/15/3084313

Land to the South of Jacksons Meadow, Bidford on Avon, Warwickshire

- 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 Western against the decision of Stratford on Avon District Council.
 - The application Ref 14/03291/OUT, dated 10 December 2014, was refused by notice dated 23 March 2015.
 - The development proposed is the erection of up to 40 dwellings with public open space, a new access and associated drainage, landscaping and drainage works.
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Decision

1. The appeal is allowed and outline planning permission is granted for the erection of up to 40 dwellings with public open space, a new access and associated drainage, landscaping and drainage works at Land to the South of Jacksons Meadow, Bidford on Avon, Warwickshire in accordance with the terms of the application, Ref 14/03291/OUT, dated 10 December 2014, subject to the conditions contained within the Schedule at the end of this decision.

Preliminary Matters

2. The Council refused planning permission for the appeal development for three reasons. However, as part of the appeal process, the Council has subsequently stated that it will not be defending any of the reasons for refusal as part of the appeal.
3. The proposal is for outline planning permission with all matters reserved for future approval except for access. In addition to the proposed access arrangements, the material submitted with the application includes details which make reference to layout, appearance, landscaping and scale. Whilst not formally part of the scheme, I have nevertheless treated this material as a useful guide as to how the site could be developed.
4. A completed deed of agreement dated 15 October 2015 made under section 106 of the Town and Country Planning Act 1990 was submitted during the appeal process (the S106 Agreement). I have taken the S106 Agreement into account in the determination of the appeal. The Council has also confirmed that the provisions of the S106 Agreement fully address the second of its reasons for refusing planning permission.

Main Issues

5. The main issues are:

- The effect of the development on the provision of agricultural land;
- Whether or not the site would represent a sustainable location for the development proposed;
- Whether or not any impact of the development on local infrastructure would be adequately offset;
- The effect of the proposed development on flood risk; and
- Whether any harm arising is outweighed by any other considerations including the current absence of a National Planning Policy Framework compliant supply of housing land in the area.

Reasons

Background

6. The appeal site is an area of some 1.5 hectares of reasonably flat agricultural land located near to the northern edge of the village of Bidford on Avon. While residential properties adjoin it to the north and west and also face it to the south beyond an intervening field, the site stands beyond the settlement boundary identified in the development plan. A footpath, The Heart of England Way, runs north-south immediately to the western boundary. It is proposed that vehicular access to the site would be gained via an extension to Jacksons Meadow, an existing residential cul-de-sac to the north.
7. The National Planning Policy Framework (the Framework) outlines a presumption in favour of sustainable development, which it indicates has three dimensions – economic, social and environmental. Plans and decisions need to take local circumstances into account, so that they respond to the different opportunities for achieving sustainable development in different areas. Planning policies should aim for a balance of land uses within their area so that people can be encouraged to minimise journey lengths for employment, shopping, leisure, education and other activities.
8. In respect to housing delivery, the Framework requires the Council to meet the full, objectively assessed needs for market and affordable housing in the housing market area, as far as is consistent with the policies set out in this Framework, including identifying key sites which are critical to the delivery of the housing strategy over the plan period. Paragraph 49 says that housing applications should be considered in the context of the presumption in favour of sustainable development and that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites. In this case the main parties agree that there is not a Framework compliant supply of housing land, such that paragraph 49 is engaged.
9. Although it is a weighty material consideration, the Framework does not change the statutory status of the development plan. The development plan for this area is the Stratford-on-Avon Local Plan Review 1996-2011, which was adopted in 2006 (the Local Plan). The Council's reasons for refusal indicate that the appeal development would be contrary to Policies IMP.4, concerning infrastructure provision, PR.7 and DEV.7, regarding flooding and drainage, and DEV.6 concerning services.

10. The Stratford-on-Avon Submission Core Strategy 2014 (the emerging Core Strategy) was submitted to the Secretary of State in September 2014 and following the pursuant Examination, the Inspector's Interim Report was published in March 2015. Amongst other things, the Interim Report indicates that the Council will need to revisit the Objective Assessment of Housing Need. The Statement of Common Ground (SoCG) indicates that, as a consequence, the emerging Core Strategy is likely to require amendment to meet housing needs within Stratford upon Avon, the Main Rural Centres, large brownfield rural sites and a further new settlement. On this basis, with reference to paragraph 216 of the Framework, the policies contained within the emerging Core Strategy are currently of limited weight in the determination of the appeal.
11. The Council's first reason for refusal also refers to the emerging Neighbourhood Development Plan for the Parish. The SoCG indicates that this document is currently only in draft form and that at this stage it carries only very limited weight. Given that it is at such an early stage, again with reference to paragraph 216 of the Framework, I see no reason to disagree with the main parties on this matter.

Agricultural Land

12. The site is land in grade 2 of the Agricultural Land Classification. Consequently, it falls within the definition of 'best and most versatile agricultural land'. Paragraph 112 of the Framework says that local planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land. It goes on to say that where significant development of agricultural land is demonstrated to be necessary, they should seek to use areas of poorer quality land in preference to that of a higher quality. The evidence indicates that the site is currently in agricultural use; this is consistent with what I saw when I conducted my site visit.
13. The Agricultural Assessment submitted with the appeal planning application indicates that Bidford on Avon is surrounded by significant areas of grade 2 agricultural land. The SoCG states that the proposed development would not represent significant development in the context of paragraph 112 of the Framework. Given its limited size and bearing in mind the context of available grade 2 land nearby, I broadly agree.
14. I also note the evidence in respect to another appeal for development of grade 2 agricultural land elsewhere in Bidford on Avon¹. Amongst other things, that Inspector states that in that case the appellants pointed out that *if any expansion is to take place at the village then the use of Grade 2 land will be almost inevitable: a point accepted on behalf of the Council*. I recognise that the circumstances of all appeals differ and that they must be determined on their individual merits. Nonetheless, I note that the current appeal site is substantially smaller than that other appeal site, which measured some 6.6 hectares. Moreover, it appears that the housing shortage, which existed at the time of that decision in 2013, has not been fully resolved given that the Council cannot currently demonstrate a Framework compliant supply of housing land.

¹ Ref APP/J3720/A/12/2176743

15. Bearing in mind the acknowledged value of the land in agricultural terms, I consider that its loss to another use weighs against the appeal proposals. However, due to the limited area concerned, the availability of other grade 2 land nearby and in the context of a housing land shortage, only limited weight can be afforded to the loss of best and most versatile agricultural land in this case.

Sustainability of Location

16. The SoCG indicates that the site is located approximately half a mile from the centre of Bidford on Avon and that there are a number of services and facilities, including a general store, petrol filling station, pubs, a school, a place of worship and sports pitches, within this distance of the site. It also indicates that there are other nearby uses that would offer local employment opportunities, such as the industrial estate off Waterloo Road, and that the village is served by public transport in the form of bus routes that link it to Stratford-upon-Avon, Redditch and Evesham. Having visited the area and reviewed the wider evidence, I have found no reason to disagree with the main parties in this regard.
17. Bearing in mind its location on the edge of the settlement with reasonably good links via the existing network of paths and highways that provide a choice of transport modes along with its proximity to a range of services, facilities and employment, the site stands in a reasonably sustainable location. On this basis and given the fairly modest scale of the development proposed, I consider that the site would represent a sustainable location for the appeal scheme.

Local Infrastructure and Planning Obligations

18. The Council's Committee report and the associated Update Report for its Planning Committee in respect to the appeal development refer to several matters that it considers should be secured via planning obligations. In summary these relate to the on-site provision of affordable housing units at a rate of 35% and open space, and contributions for library facilities, public rights of way, sustainability packs, children's play provision, youth and adult provision, and education. With exception of a contribution to acute healthcare facilities, as requested by the South Warwickshire NHS Foundation Trust, the S106 Agreement broadly responds to each of the planning obligations sought by the Council at that time.
19. I have considered these obligations in light of Regulation 122 of The Community Infrastructure Levy (CIL) Regulations 2010 (as amended) and government policy and guidance on the use of planning obligations. From the evidence before me I have no reason to believe that any of the payments which are sought would result in the pooling of more than five obligations for any one infrastructure project or type of infrastructure through planning obligations.
20. The provision of affordable housing at a rate of 35% of the total development is in line with Local Plan Policies COM.13 and COM.14 as well as with the objectives of paragraph 50 of the Framework. Policy IMP.4 of the Local Plan also says that planning permission will only be granted where proper arrangements have been put in place to secure the provision of the full range of physical and social infrastructure necessary to serve and support the development proposed. It goes on to say that planning obligations will be

sought through negotiation with developers where these would secure provision, either on or off site, of the necessary physical and/or social infrastructure. Policy DEV.6 also makes similar provisions. Local Plan Policies COM.4 and COM.5 set out the requirements for open space provision with new development. Local Plan Policy IMP.5 indicates that contributions will be sought towards transport-related facilities required as a result of a development.

21. From the evidence I find that the obligations in respect to affordable housing; on and off site open space; footpath, library and primary education services and facilities; and householder travel packs are all legitimately required by Local Plan Policies DEV.6, COM.4, COM.5, COM.13, COM.14, IMP.4 and IMP.5 and the aims and objectives of the Framework. I am satisfied that these are directly related to the proposed development, fairly and reasonably related to it and necessary to make it acceptable in planning terms.
22. In its response to the consultation on the planning application the South Warwickshire NHS Foundation Trust sought a contribution toward the provision of acute healthcare facilities. The SoCG indicates that the appellant is willing to make the requested payment, albeit that I note that it is not included among the matters covered by the S106 Agreement. However, there is no detail regarding why this contribution might be required and it is not clear how such a contribution would comply with the requirements of Regulation 122. On this basis, from the information before me, I am not persuaded that any such contribution would be justified.
23. Beyond the matters addressed in the S106 Agreement, wider concerns regarding services, facilities and infrastructure have been raised by third parties, not only in respect to the effect of the appeal development but also in regard to the cumulative effect of other development planned in the area. These matters, which include non-primary education, water supply and wider healthcare concerns, are largely considered within the Council officer's reports on the appeal development. They were also before the Council when it prepared its appeal evidence. The Council has ultimately concluded that they would not amount to reasons to justify withholding planning permission. Subject to the imposition of planning conditions and the obligations of the S106 Agreement and given the range and proximity of facilities outlined in the *Sustainability of Location* sub-section above, I see no good reasons to disagree.
24. Overall, therefore, I consider that the S106 Agreement would make adequate provisions to offset any likely impact of the development on local infrastructure. Accordingly, the proposed development would comply with Policy IMP.4 of the Local Plan and with the relevant objectives of the Framework.

Flood Risk

25. The appeal site is within Flood Zone 1, which is land that is at the lowest risk of flooding. The Framework indicates that when determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere. It adds that a site specific flood risk assessment is required for proposals of 1 hectare or greater in Flood Zone 1. A Flood Risk Assessment (FRA) for the proposed development was submitted with the appeal planning application.

26. The FRA identifies potential flood risk including from Small Brook, which lies to the north of the site, and that Bidford on Avon has historically experienced flooding associated with the Avon and its tributaries. Mitigation is proposed such that surface water flows from the developed site would be limited to no greater than those of the undeveloped site. The proposals, including the FRA, have been considered by the Environment Agency, the County Council as lead Local Flood Authority, as well as Severn Trent Water and, subject to mitigation to be secured by planning conditions, none of these bodies have raise any objection to the proposed development. I have also reviewed the wider evidence and found no good reason to believe that the scheme would have any effect on flood risk or surface/foul water drainage which could not be reasonably mitigated.
27. For these reasons, therefore, the proposed development would have an acceptable effect in terms of flood risk and drainage. Consequently, in these respects it would accord with Policies PR.7 DEV.6 and DEV.7 of the Local Plan and with the Framework, including paragraphs 100 to 104.

Planning Balance and Sustainable Development

28. In undertaking the planning balance I have taken into account that, as outlined above, I have found no conflict with any policies of the development plan, the refusal reasons make no reference to any specific policies of the emerging Core Strategy or of the emerging Neighbourhood Development Plan and that the weight carried by these emerging policy documents is limited. I have also made an assessment of whether the proposals would amount to sustainable development in the terms of the Framework. In doing so I have had regard to, among other things, the absence of a demonstrable five-year housing land supply and the contents of the Framework as a whole.
29. In terms of the economic and social dimensions of sustainable development, the appeal proposal would be deliverable and increase the supply and choice of housing, including affordable homes in line with the requirements of the development plan, in an area where there is not a Framework compliant supply of housing land. The development would also contribute towards economic growth during the construction phase in terms of employment. In the longer term the additional population would be likely to increase spending, for instance in local shops, and help support the sustainability of other local services such as the primary school and bus services. I have concluded that the site is a reasonably sustainable location for new development of an appropriate scale as it provides a range of local services within walking distance of the site and these would be enhanced via the provisions of the S106 Agreement. These matters together carry very considerable weight in favour of the proposals.
30. Regarding the environmental dimension, the site is largely screened from the principal roads to the north, south and west by the existing neighbouring development, while to the east views are somewhat distant and the proposed development would be seen against the backdrop of the existing neighbouring housing. Nonetheless, due in part to the reasonably flat local topography, development of the scale and type proposed would be readily apparent from closer viewpoints. For instance, the proposed dwellings would be visible from along the Heart of England Right of Way to the west and south of the site, from

the neighbouring cul-de-sacs, Jacksons Meadow, Steppes Piece and Stepping Stones, and from neighbouring private property.

31. I recognise that the appeal site is located on the fringes of the settlement close to existing dwellings that would be broadly comparable to the development proposed, and that the detail of the appeal scheme could be carefully considered at the reserved matters stage. Nonetheless, the introduction of the development to this greenfield site, beyond the village boundary, would have an urbanising effect that would be harmful to the intrinsic character and beauty of this part of the countryside. This effect would be readily perceived from part of the surrounding public domain. This harm and the loss of agricultural land, as set out above, weigh against the proposed development. These are, however, comfortably outweighed by the matters outlined above such that, overall, the appeal proposal would represent sustainable development in the terms of the Framework.

Other Matters

32. In addition to the foregoing matters, concern has been expressed locally, including by the Parish Council, as well as by the Campaign to Protect Rural England in respect a number of considerations. These include the effect of the proposed development on the character and appearance of the area, including in regard to development density, and visual and landscape impact; on highway safety and congestion; on the living conditions and health of neighbouring occupiers, including in respect to the noise, disturbance, light, overbearing, pollution and privacy, including during the construction period; on crime and vandalism; on tourism; on wildlife habitat and biodiversity; on the stability of land and property; on the village character of the settlement and the creation of a commuter village; on greenspace, parking and turning space in Jacksons Meadow; on social cohesion and existing community links; and on the safety of children playing in Jacksons Meadow.
33. Other issues raised concern that any potential economic benefits of the development are unproven and would be transient; the scheme is against design guidance regarding the length of cul-de-sacs; the proposed swale would reduce the usability of the open space and be a drowning hazard; the proposed flood risk management is contrived and would be unsustainable; the planting/buffer proposed to Jacksons Meadow is inadequate; non-compliance with the emerging Core Strategy and Neighbourhood Plan and the development being premature/prejudicial to the plan-making process; the availability of developable brownfield land; conflict with the development plan; the adequacy of the amenity space proposed; the proposal should be determined in the same manner as another planning application at Waterloo Crescent²; the proposals would set a precedent; radon gas; the cumulative effect of the proposals with other planned development; a lack of need; the loss of countryside views; the feasibility of construction; and a pumping station would be unsightly and noisy.
34. These matters are largely considered within the Council's Committee reports on the appeal development. They were also before the Council when it prepared its evidence. The Council did not conclude that they would 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 good reasons to disagree.

² Ref 14/02360/FUL

Conditions and Conclusion

35. The Council has submitted a list of suggested conditions, which I have considered in the light of government guidance on the use of conditions in planning permissions and made amendments accordingly. For the avoidance of doubt and in the interests of proper planning, a condition requiring that the development is carried out in accordance with the approved plans would be necessary bearing in mind that access is not reserved for future consideration.
36. Conditions to control the erection of structures and enclosures during the construction phase and the submission and approval of a Construction Method and Management Statement would be necessary to safeguard the living conditions of local residents and in the interests of highway safety. Conditions to ensure that the proposed access is provided with the development and limiting the points of vehicular access would be necessary for the avoidance of doubt and in the interests of proper planning and of highway safety.
37. Conditions to ensure that the requisite FRA mitigation and surface and foul water drainage are put in place with the development would be necessary to safeguard against the risk of flooding and protect the environment. A condition requiring the submission and approval of detailed plans and sections showing existing and proposed site levels, along with proposed finished floor levels, would be necessary to safeguard the character and appearance of the area. The provision of a water butt, for each dwelling that has a downpipe, and three bins for each dwelling would also be necessary to safeguard the environment and in the interests of sustainability.
38. To support pedestrian/cycle movements to and from the site and to promote sustainable modes of travel, a condition to secure improvements along the Heart of England Way would be necessary. A condition to protect of trees/hedges would be necessary to safeguard the character and appearance of the area. A condition to protect nesting birds during the construction process would be necessary in the interests of biodiversity. Details of all external light fittings and external light columns, including their predicted luminance levels, would be necessary to safeguard the living conditions of local residents and to prevent light pollution bearing in mind the site's edge of village location.
39. As all matters, bar access, are reserved for future consideration a condition controlling external facing materials would be unnecessary. A condition governing incidental landscaped areas and public open space and play/recreation equipment would also be unnecessary as these matters are covered by the S106 Agreement.
40. In summary, notwithstanding its effect on the character and appearance of the area and the loss of agricultural land, given the matters that weight in its favour including the absence of a five-year housing land supply, I find that the appeal scheme would be sustainable development. I conclude, therefore, that the appeal should be allowed subject to the identified conditions.

G D Jones

INSPECTOR

SCHEDULE OF CONDITIONS FOR APPEAL REF APP/J3720/A/15/3084313:

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than two years from the date of this permission.
- 3) The development hereby permitted shall take place not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing No B.0350_01A; Drawing No 2905; Drawing No 4224/SK/201 Rev A.
- 5) A maximum of 40 dwellings shall be erected on the site.
- 6) Notwithstanding the provisions of Part 4 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking or re-enacting that Order with or without modification), no buildings, compounds, structures or enclosures which are required temporarily in connection with the construction of the development hereby permitted shall be placed or erected on the site until details have been submitted to and approved in writing by the Local Planning Authority. Any matters controlled by this condition shall thereafter only be sited in accordance with these approved details unless otherwise approved as part of the Construction Method and Management Statement as approved under the terms of Condition 13 of this planning permission.
- 7) The development hereby permitted shall not be occupied until the approved vehicular access has been provided and any necessary footway and carriageway alterations have been carried out all in accordance with the details of Drawing No 4224/SK/201 Rev A.
- 8) There shall be no vehicular access to the site via either Stepping Stones or Steppes Piece.
- 9) The development hereby permitted shall be implemented in accordance with submitted Flood Risk Assessment by Cole Easdon Consultants ref: 4224 issue 3 dated February 2015 unless otherwise approved under the terms of Condition 10.
- 10) No development hereby permitted shall take place until a surface water drainage scheme based on sustainable drainage principles has been submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is occupied. The scheme shall be in accordance with the Flood Risk Assessment by Cole Easdon Consultants ref: 4224 issue 4 dated May 2015 and the scheme submitted shall include the following:
 - The discharge rate to be limited to an appropriate greenfield run-off for all rainfall events to 100 year plus climate change;
 - Porosity tests to be undertaken to demonstrate the feasibility of draining the site by infiltration, and the results of the porosity tests submitted;
 - Details of the proposed drainage system including longitudinal sections with cover and invert levels of pipework together with supportive calculations;

- Details of overland flood flow routes in case of system failure, through hydraulically modelling the floodwater outline, indicating flood flow depths and velocities; and
 - Details of the management and maintenance regime for the whole drainage system.
- 11) At the time of first submission of the reserved matters a detailed plan and sections showing existing site ground levels and proposed ground levels and finished floor and ridge levels of the dwellings hereby permitted shall be submitted to the Local Planning Authority (LPA). No part of the development shall be commenced until approval in writing of the levels details has been issued by the LPA and the development thereafter shall only be carried out in accordance with those approved details.
- 12) No part of the development hereby permitted shall be commenced until a scheme for the disposal of foul water has been submitted to and approved in writing by the Local Planning Authority and thereafter no part of the development shall be occupied until the approved scheme has been carried out.
- 13) No development shall take place, or any works of site clearance, until a Construction Method and Management Statement has been submitted to and approved in writing by the Local Planning Authority. The approved Statement shall be adhered to throughout the site clearance and construction period. The Statement shall provide for:
- A scheme for the routing of construction vehicles that are under the developer's control
 - The hours of construction work and deliveries
 - The parking of vehicles of site operatives and visitors
 - Loading and unloading of plant and materials
 - Storage of plant and materials used in constructing the development
 - The erection and maintenance of security hoarding.
 - Wheel washing facilities and road cleaning arrangements
 - Measures to control emission of dust and dirt
 - A scheme for the storage, recycling and/or disposing of waste resulting from site clearance or re-grading and construction works.
 - Location of temporary buildings and associated generators, compounds, structures and enclosures.
 - Provision of a Banksman or Banksmen at the site including early morning and during construction hours.
- 15) No house 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.
- 16) Each dwelling hereby permitted shall not be occupied until three bins for the purposes of refuse, recycling and green waste have been provided in accordance with the Council's bin specifications.
- 17) No part of the development hereby permitted shall be commenced until full details and a timetable for provision of the improved footway/cycleway along Heart of England Way have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented in accordance with the approved timetable.

- 18) No part of the development shall be commenced or equipment, machinery or materials brought onto the site until a scheme for the protection of all existing trees and hedges to be retained on site has been submitted to and approved in writing by the Local Planning Authority and has been put in place.
- The scheme must include details of the erection of stout protective fencing in accordance with British Standard 5837:2012, Trees in relation to design, demolition and construction - recommendations.
 - Fencing shall be shown on a plan and installed to the extent of the tree protection area as calculated using the British Standard.
 - Nothing shall be stored or placed in those fenced areas or the ground levels altered without the prior consent in writing of 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 associated with the construction phase have been removed.
- 19) No part of the development shall be commenced or any ground clearance or site preparation works or equipment, machinery or materials brought onto the site between 1st March and 31st August inclusive, unless a qualified ecologist has undertaken a check of the site for active birds' nests immediately before any works or activity commences on the site and has provided written confirmation to the Local Planning Authority that no birds will be harmed and/or that there are appropriate measures in place to protect nesting birds on-site for the duration of the works on site.
- 20) The development hereby permitted shall not be occupied until details of all external light fittings and external light columns have been submitted to and approved by the Local Planning Authority. The development shall not be carried out other than in full accordance with such approved details.

Richborough Estates