



Appeal Decision

Site visit made on 24 July 2024

by Paul Martinson BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 October 2024

Appeal Ref: APP/C3240/W/24/3340770

Site off Roberts Road, Telford TF7 5JL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Micharon Homes against the decision of Telford and Wrekin Council.
 - The application Ref is TWC/2022/0560.
 - The development proposed is described as 'Proposed residential development for the construction of 20 no. new dwellings with new estate road car parking and public open space'.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs has been received from Micharon Homes against Telford and Wrekin Council.

Preliminary Matters

3. On 30 July 2024 the Government published a consultation on proposed reforms to the National Planning Policy Framework (the Framework) and other changes to the planning system. A direction of travel has been outlined within the Written Ministerial Statement (WMS), which proposes altering Council's housing targets and sets out that the Government's aspiration is to change planning policy to support the delivery of more affordable homes and in particular affordable rented housing. This is a material consideration.
4. These matters also form part of the draft Framework. The proposed changes to the Framework can only be given limited weight at this stage, given that no final document has been published. The main parties have been provided with an opportunity to comment on these documents and their responses have been taken into account, where received.

Main Issues

5. The main issues are:
 - whether the location of the proposed development would be acceptable, having regard to the development plan policies and the effect on the Green Network; and
 - the effect of the proposed development on the setting of designated and non-designated heritage assets, including: the Severn Gorge Conservation

Area (the SGCA); the Ironbridge Gorge World Heritage Site (IGWHS); and the nearby Buildings of Local Interest.

Reasons

Green Network

6. The appeal site is a roughly triangular grassed field on the south-west periphery of the settlement of Madeley. The site slopes reasonably steeply in places from north to south. A public right of way runs along the south-west boundary of the site. It adjoins another partially wooded field to the west which includes a large pond.
7. The site lies within close proximity to a large number of services and facilities and is within the urban boundary of Telford, which is the principal focus for growth, as set out in the Telford and Wrekin Local Plan (2018) (the LP). The site also lies within land forming the Green Network. LP Policy NE6 defines this as a strategic interconnected network of open spaces within the urban areas of Telford and Newport which perform multiple functions. The Council sets out that the appeal site was designated as Green Network due to its provision of significant visual amenity value, separation between built development, recreational land in the form of the existing Public Right of Way, and habitat based on its proximity to the adjacent waterbody, its grassland and trees.
8. LP Policy NE6 sets out that new development within the Green Network will only be supported where it identifies, protects and enhances the Green Network and its functions. Where adverse impacts are identified, proposals are required to demonstrate that the benefits of the development outweigh any adverse impacts on the Green Network and its functions.
9. The appeal site forms part of a wider swathe of green space opposite the row of semi-detached dwellings on Roberts Road, most of which is within the Green Network. This green space consists of undeveloped fields, pockets of woodland and hedgerows sloping in the direction of Ironbridge Gorge. Forming part of a larger area of undeveloped green space, the appeal site thus has a somewhat rural character, in contrast with the more suburban character of the residential development along Roberts Road.
10. Owing to the sloping nature of the appeal site, its relatively open boundary with the edge of Roberts Road and the presence of the public right of way, it is a highly visible part of the Green Network within the streetscene here. The sloping and open character of the appeal site provides an elevated field of view of the wider Green Network providing a sense of the Gorge beyond, with views of the wooded south bank of the Severn Valley in the distance. The appeal site contributes significantly to the visual amenity of the area. The public right of way that runs through the appeal site links into a network of rights of way that provide access from the developed areas to nearby nature reserves, Ironbridge Gorge and the historic development along the banks of the Severn.
11. In that regard, the highway along Roberts Road provides a clear divide between the suburban, regular arrangement of dwellings to its northern edge and the network of fields and more sporadic residential development to the south, along Harris's Lane and Orchard Lane. This predominantly comprises of individual and small clusters of dwellings abutting areas of woodland and open fields that form part of the Green Network designation.

12. The appeal proposal would develop the northern part of the appeal site, leaving a smaller triangular portion to the south. The development of 20 dwellings would comprise of a row of dwellings accessed from Roberts Road and a further row to the south, accessed via a new road with a turning head. The south of the site would incorporate 0.4Ha of public open space which would include a wildflower meadow.
13. This would result in the urbanisation of a significant portion of the appeal site and the erosion of the Green Network in this location. Moreover, owing to the sloping nature of the site, the proposal would result in the land being built up to accommodate the dwellings to the southern part of the site. This would result in the provision of a retaining wall along the full length of the boundary with the remaining undeveloped portion of the field. As it would also include a new 1.8 metres high boundary fence above it, this new hard boundary with the proposed meadow and open space would be an imposing, incongruous and urbanising feature that would be at odds with the existing rural character. It would be highly visible to users of the public right of way and from the gate onto Orchard Lane. In these views the retaining walls and fence would give the impression of a residential development encroaching into the undeveloped space, with a poor relationship with the remaining area.
14. I acknowledge that the effects on the wider Green Network would be localised. However, the elevated nature of the development including the dwellings themselves, the aforementioned garden boundaries, and the access and turning head would nonetheless represent a highly prominent urban incursion into the green space in views from Roberts Road, the public right of way and from parts of Orchard Lane. This would erode the rural character of the appeal site, limiting existing views of the Severn Valley and diminishing the site's positive contribution to the visual amenity of the area. There is nothing before me that would enable me to conclude that the harm to visual amenity could be satisfactorily mitigated by landscaping, having regard to the scale of the development and boundary features.
15. The proposal seeks to create habitat through provision of a meadow and wildflower grassland in the remaining part of the site, which would also function as public open space. However, taking into account the smaller nature of this space compared to the developed part of the site, the extent of tree removal and effect of the proposed development upon the existing habitat, it has not been clearly demonstrated at this stage that an overall enhancement to biodiversity could be achieved, were such details supplied through a planning condition.
16. Nonetheless, the provision of the grassland would mean that there would be local access to new open space. However, there is already public access across the site via the public right of way from which the site's contribution to the visual amenity of the area can be readily appreciated. Given that the proposed public open space comprises of a reasonably small area and that it would be utilised as a hay meadow with the vegetation allowed to grow tall, it is unclear whether there would be any additional recreational value in terms of the site's contribution to the public from this space than exists at present.
17. Overall, for the above reasons, the proposal would significantly harm the visual amenity of the Green Network, and would neither protect nor enhance the Green Network or its function as required by LP Policy NE6.

18. In line with the policy requirement, it is necessary to ascertain whether the benefits of the scheme would outweigh the harm to the Green Network, as set out above. The proposal is for 100% affordable housing, significantly in excess of the 25% required by the LP. Whilst there is a dispute between the Council and the appellant's figures with regard to the precise extent of the affordable housing requirements, I am satisfied that there is a shortfall. Twenty affordable dwellings would be a useful contribution towards that shortfall.
19. Moreover, the provision of bungalows, in particular, would address a need set out in the Council's Strategic Housing Market Assessment (SHMA). However, whilst I recognise the need for a positive approach to schemes that address the need for wheelchair user dwellings, it is unclear whether the Council is under-delivering in that regard. The limited evidence limits the weight I can give to the supply of accessible housing. Moreover, although I can give weight to the provision of affordable homes, this would make a moderate contribution only to local housing supply.
20. I acknowledge that the proposed development would provide a boost to the local economy through employment and training opportunities during construction, increased spend from local residents in the local economy following completion, together with the delivery of the New Homes Bonus. There would be benefits from the provision of electric vehicle charging facilities. Nonetheless, all of these benefits are limited by the small-scale nature of the development.
21. The appellant refers to benefits from financial contributions, however, these are a policy requirement to offset the impact of the development and as such are of neutral consequence in the balance.
22. As set out above, the proposals would result in the loss of part of the Green Network and would have an adverse effect on the visual amenity of the area. Although I acknowledge the benefits arising from the provision of affordable and accessible housing, for the reasons set out above I am unable to conclude that these benefits outweigh the harm identified above in relation to the Green Network.
23. On this basis I therefore conclude that the location of the proposed development is not acceptable having regard to the development plan policies and the effect on the Green Network. The proposal would therefore conflict with LP Policy NE6, described above. There would also be conflict with LP Policy SP4, which sets out a presumption in favour of sustainable development and requires conformity with the LP Policies.

Heritage Assets

24. The southernmost part of the appeal site lies immediately adjacent to the boundaries of the Severn Gorge Conservation Area (the SGCA) and the Ironbridge Gorge World Heritage Site (the IGWHS). The boundaries between the two heritage assets are consistent with one another in the location of the appeal site.
25. The special interest and significance of the SGCA mainly stems from the preservation of the area's historic layout, extensive surviving architecture linked to the past development of this area within the Industrial Revolution, set within dramatic topography and a wider landscape of woodland and grassland.

26. The boundary of the SGCA is closest to the appeal site along Orchard Lane immediately opposite the southern corner of the appeal site. Orchard Lane forms a finger of the SGCA that extends up this tree-lined lane to this point. Due to the distance, topography and screening by woodland, direct intervisibility between the edges of the SGCA is limited. However, the public right of way through the appeal site forms an important approach into the SGCA from the north and consequently forms part of the surroundings in which it is experienced. It therefore lies within its setting.
27. The appeal site forms part of a wider area of undeveloped grassland landscape interspersed by trees, crossed by public rights of way and sloping in the direction of the Gorge. The appeal site, with access down towards the Gorge via the public right of way, thus, contributes in a positive way to the special interest and significance of the SGCA as a designated heritage asset.
28. The IGWHS is internationally recognised to be of Outstanding Universal Value (OUV) and a designated heritage asset of the highest significance. The IGWHS Management Plan (2017) sets out that the OUV of the IGWHS largely derives from the important role the area played in the Industrial Revolution in the eighteenth century, the effects of which spread worldwide, leading to some of the most far-reaching changes in human history. The surviving high concentration of eighteenth and nineteenth century dwellings, warehouses and public buildings set within a historic landscape of woodland and grassland which extends north of its boundary, provides a powerful insight into the origins of the Industrial Revolution.
29. The boundary of the IGWHS is consistent with the boundary of the SGCA. Thus, the projecting section that follows the tree-lined Orchard Lane lies close to the appeal site, although direct intervisibility between the edges of the IGWHS and the appeal site is limited. The public right of way through the appeal site forms an important approach into the IGWHS and on this basis forms part of the surroundings in which it is experienced. The appeal site therefore lies within the rural setting of the IGWHS. There is no designated buffer zone to the IGWHS. Nonetheless, as part of a wider area of undeveloped grassland landscape interspersed by trees, sloping in the direction of the Gorge, the appeal site, with access across it via a public right of way, thus, contributes positively to the OUV of the IGWHS as a designated heritage asset of the highest significance.
30. Policy BE3 of the LP sets out that the Council will protect and enhance the OUV of the IGWHS with any harm or loss clearly justified. Additionally, proposals in, or adjacent to, the IGWHS that would adversely affect the setting of the asset, including the existing skylines and views to, and from, the Gorge will not be supported. LP Policy BE5 requires any harm or loss to conservation area to be clearly justified. Development that will not do justice to the setting and surroundings of a conservation area will not be supported.
31. The proposal would result in the development of a large portion of the field making up the appeal site and the provision of a hard, imposing and urbanising boundary feature along its width. The introduction of incongruous urbanising development, particularly the boundary features, alongside the loss of the green space and diminished views towards the Severn Valley, would negatively impact on the rural character of this space and the experience of users of the

- public right of way descending towards the boundary with the SGCA and the IGWHS.
32. For the above reasons, this extension of suburban development towards the boundaries of the heritage assets would erode the wider rural setting of the SGCA, adversely affecting its significance. Similarly, for the above reasons, the proposal would have a negative effect on the wider setting of the IGWHS, to the detriment of its OUV.
33. The appeal site lies to the south of Buildings of Local Interest, Sycamore Cottage and 39 Beech Road. This pair of cottages date from the late eighteenth or early nineteenth century. Their significance primarily arises from their traditional vernacular appearance including their gabled dormer windows, roof forms and chimney stacks. Map evidence indicates that these buildings originated in an entirely rural location surrounded by fields.
34. The appeal site which adjoins the side garden boundary of Sycamore Cottage is the last surviving remnant of the previously existing fields that surrounded these dwellings. However, the properties now front Beech Road and back on to Roberts Road. Consequently, in the majority of views these properties are seen alongside the existing suburban development. Their former setting within a rural landscape has thus been significantly compromised by the more recent development. Located adjacent to the side garden of just one of the properties, the appeal site, forming part of their setting, makes a limited contribution to the significance of this pair of cottages.
35. The proposal would develop much of the appeal site immediately to the south of the pair of Buildings of Local Interest. However, a small, triangular undeveloped section would remain adjacent to the side boundary of Sycamore Cottage which, through the presence of the public right of way, would be linked to the proposed meadow and public open space beyond. This, alongside the adjoining undeveloped land to the west would ensure that the former rural setting of the cottages could continue to be appreciated, to a similar extent that it is now. Noting the appeal site's limited contribution to the significance of the Buildings of Local Interest, I am satisfied that the proposed development of the appeal site would preserve that significance.
36. Nevertheless, I have found harm in relation to the SGCA and the IGWHS. With reference to Paragraphs 207 and 208 of the Framework, in finding harm to designated heritage assets, the magnitude of that harm should be assessed. Given the scale and nature of the proposal, I find that the harm to the significance of the SGCA and the OUV of the IGWHS would be less than substantial. This is nonetheless, of considerable importance and weight. Under such circumstances, Paragraph 208 advises that this harm should be weighed against the public benefits of the proposal.
37. As set out in the above main issue, public benefits would arise from the provision of 20 affordable and accessible homes, which would contribute to an existing shortfall in affordable housing within the District. There would also be short term economic benefits and localised benefits from electric vehicle charging points.
38. To conclude on the main issue, whilst the public benefits, when taken together, weigh strongly in favour of the proposal, they would not outweigh the harm I have identified above in relation to designated heritage assets, to which I must

give considerable importance and weight. The unjustified harm to heritage assets would be contrary to Policies BE3 and BE5 of the LP, set out above. There would also be conflict with Policy BE1 of the LP which requires high standards of design including within the IGWHS. The proposal would also be contrary to the provisions within the Framework which seek to conserve and enhance heritage assets.

39. As I have not found harm to the setting of a Building of Local Interest, I have not found a conflict with Policy BE6iii of the LP which seeks to ensure new development preserves Buildings of Local Interest.

Other Matters

40. Mindful of the statutory duty set out in section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I have had special regard to the desirability of preserving the setting of Lincoln Grange, the Grade II listed former Madeley Union Workhouse which has now been converted to residential use, located approximately 200 metres from the appeal site. The special interest and significance of this asset largely stems from its architectural and historic interest as a surviving example of a mid-Victorian workhouse but is also derived, in part, from its wider historic setting, on the hillside sloping towards the Gorge. Given the distances involved, the presence of intervening development and screening provided by topography and woodland, I am satisfied that the setting of the listed building would be preserved by the proposed development and its significance, including the contribution made by its setting, would not be harmed. On this basis it would meet the requirements of the Act, LP Policy BE4 and the provisions within the Framework.

Unilateral Undertaking

41. There is a signed and completed UU. Schedule 3 seeks to secure the development as 100% affordable housing in perpetuity. I am satisfied that the obligation would achieve this aim. It would be directly related, and fairly and reasonably related in scale and kind to the proposed development in accordance with CIL Regulation 122 and paragraph 57 of the Framework. As set out above I have given the assurances offered by the UU appropriate weight in my assessment.
42. Despite the submission of the UU, the appellant sets out that their preference is for a planning condition as the scheme is likely to require grant funding to make it viable, and there can be difficulties with securing this where units are secured by planning obligation. However, I have not been provided with convincing evidence to support this assertion. Furthermore, neither party has provided me with suggested wording for a potential alternative planning condition that would secure the matters set out in schedule 3. Nonetheless, Policy HO6 of the LP is clear in that it states that any affordable housing, both on-site and off-site, will be secured through a planning obligation. Nevertheless, as I am dismissing on other grounds, I need not consider this matter any further.
43. Based on the evidence before me, the proposed contributions relating to education, highways and recreation are necessary, directly related, and fairly and reasonably related in scale and kind to the proposed development in accordance with CIL Regulation 122 and paragraph 57 of the Framework. Nonetheless, the appellant has also supplied a financial viability assessment

which sets out that the development would be unviable were the contributions to be provided. The Council has not provided a response to the appellant's arguments with respect to this matter. Nonetheless, as I am dismissing on other grounds, it is not necessary to consider this matter any further, given that the proposal is unacceptable for other reasons.

Conclusion

44. As set out above, the WMS is a material consideration. This proposes altering Council's housing targets, and the appeal site would contribute to any additional requirement. The WMS sets out the Government's aspiration is to change planning policy to support the delivery of more affordable homes and, in particular, affordable rented housing. This also forms part of the draft Framework.
45. The WMS weighs in favour of the appeal scheme. However, given the harm identified above, I have concluded that the provision of affordable housing would not justify taking an approach contrary to the adopted development plan having regard to the requirements of section 38(6) of the Planning and Compulsory Purchase Act 2004 and the Framework. As such, there are no material considerations of such weight to outweigh the harm identified in relation to the Green Network and heritage assets. The appeal is dismissed.

Paul Martinson

INSPECTOR



Costs Decision

Site visit made on 24 July 2024

by Paul Martinson BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 October 2024

Costs application in relation to Appeal Ref: APP/C3240/W/24/3340770 Site off Roberts Road, Telford TF7 5JL

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Micharon Homes for a partial award of costs against Telford and Wrekin Council.
 - The appeal was against the refusal of planning permission for: 'Proposed residential development for the construction of 20 no. new dwellings with new estate road car parking and public open space'.
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Decision

1. The application for an award of costs is refused.

Reasons

2. The Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The aim of the costs regime is to encourage all those involved in the appeal process to behave in a reasonable way and follow good practice, both in terms of timeliness and in the presentation of full and detailed evidence to support their case; encourage local planning authorities to properly exercise their development management responsibilities, to rely only on reasons for refusal which stand up to scrutiny on the planning merits of the case, and not to add to development costs through avoidable delay.
4. Paragraph 49 of the PPG makes clear that local planning authorities are at risk of a substantive award of costs if they do not review their case promptly following the lodging of an appeal against refusal of planning permission, as part of sensible on-going case management.
5. The applicant's principal concern relates to the Council failing to request financial contributions towards infrastructure, prior to the determination of the application. The applicant sets out that these were not requested by the Council until the drafting of a Unilateral Undertaking (UU) after an appeal had been lodged. This led to the applicant having to instruct a Financial Viability Assessment (FVA) and instruct additional work in support of the appeal.
6. The Local Plan Appendix (the LP) sets out that new major residential development is expected to mitigate the cumulative impacts of development in a 'plan led' manner by contributing towards the provision of the following types of strategic infrastructure: Education; Emergency services; Leisure; Green

Infrastructure. These contributions are also referenced in LP Policies COM1, C3 and NE4. The contributions requested by the Council for this development reflect these matters and comprise of contributions towards primary and secondary education, parking restrictions, play facilities and sports and leisure facilities.

7. The Council's Report (delegated appraisal) references the latter two contributions but there is no reference to any education contribution. There is also no confirmation that all three contributions are necessary in order to make the development acceptable. Such an inclusion would be good practice, notwithstanding that it is clear from the LP that there is an expectation major development, such as this, will mitigate cumulative impacts by contributing towards the provision of strategic infrastructure, including education facilities, subject to viability.
8. The Council did not approach the applicant to discuss any financial contributions prior to the determination of the application, nor, however, did the applicant seek to enter into such discussions with the Council. I am therefore not convinced that the Council *'failed to give the appellant the opportunity to discuss the requested contributions during the application'* as set out in the applicant's costs application. Moreover, it is clear that the applicant was aware of the likelihood of required contributions as they approached the Council in this regard as part of their appeal submission.
9. Furthermore, there is no statutory duty on the Council to approach the applicant during the time the application is under consideration and the onus is principally on an applicant to familiarise themselves with what is required in support of their proposal. For the above reasons, I am therefore not convinced that, in not making contact with the applicant during the application to discuss contributions, the Council has demonstrated unreasonable behaviour as set out in the PPG.
10. Furthermore, had contributions been discussed during the application, there is nothing before me to indicate that the applicant would not have had concerns with regard to viability at that stage. As such, the applicant would likely have sought to submit an FVA during the application. As such, even if I took the view that the Council's behaviour in this regard was unreasonable, it does not seem to me that the applicant had been put to unnecessary or wasted expense in producing the FVA since they were undertaking work that they would have had to, had the matter been dealt with during the life of the planning application.
11. The Council requested an extension of time of an additional five days to comment on the FVA during the appeal. It subsequently confirmed within that time period that it was unable to offer comment due to being unable to engage an independent assessor. Whilst this is perhaps unhelpful, I am not convinced that this short extension of time to comment and the Council's failure to respond constitutes unreasonable behaviour, moreover, it is unclear how this matter would have led to any additional cost to the applicant at appeal.

Conclusion

12. For the above reasons I conclude that unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

Paul Martinson

INSPECTOR

Richborough