
Appeal Decision

Site visit made on 19 September 2016

by Gareth Wildgoose BSc (Hons) MSc MRTPI

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

Decision date: 05 October 2016

Appeal Ref: APP/C3240/W/16/3150674

Land adjacent Crown Farm and Swift Barn, Kynnersley, Telford, Shropshire

- 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 Neil Dobson against the decision of Telford and Wrekin Council.
 - The application Ref TWC/2015/0999, dated 26 October 2015, was refused by notice dated 17 March 2016.
 - The development proposed is erection of two detached dwellings and associated works.
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Decision

1. The appeal is allowed and planning permission is granted for an outline application with all matters reserved other than means of access, for the erection of two detached dwellings and associated works at Land adjacent Crown Farm and Swift Barn, Kynnersley, Telford, Shropshire in accordance with the terms of the application ref: TWC/2015/0999, dated 26 October 2015, subject to the conditions set out in the Schedule to this decision.

Preliminary Matters

2. The site address provided in the application form has been updated by subsequent documents following the submission of an amended location plan before the Council made its decision. I consider the site address provided in the appeal form to be accurate and adopt it accordingly.
 3. The application was submitted in outline with all detailed matters other than means of access to each dwelling reserved for future approval. I have dealt with the appeal on that basis, treating the proposed elevations, site layout and floor plans within the submitted plans as illustrative.
 4. The emerging Telford & Wrekin Local Plan 2011 - 2031 (TWLP) Submission Version was published in June 2016 and submitted for examination in public. The document has not been adopted at the present time, and there is no evidence before me with respect to the extent to which there are unresolved objections to the relevant policies. This limits the weight that I can give to Policies SP 3, SP 4 and HO 10 of the emerging Telford & Wrekin Local Plan 2011 - 2031 Submission Version which are referred to within the Council's decision notice. I have therefore determined this appeal principally on the basis of the policies of the Telford & Wrekin Council Core Strategy Development Plan Document (CS), adopted December 2007, and the National Planning Policy Framework (the Framework).
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Main Issue

5. The main issue of this appeal is whether the proposal is consistent with the objectives of local and national planning policies relating to the location and supply of housing.

Reasons

6. The appeal site is land that is subdivided into two parcels by an existing access road to former barns which have now been converted to four residential properties known as Swift Barn, Willowdene, Greenbank and The Stables. The site is mostly flat and overgrown, but there is some evidence of the historic presence of agricultural buildings and areas of gravel and hardstanding. The site is part open with some sections enclosed by brick walls and railings to the highway frontage and access road. The boundary to Swift Barn to the south is defined by mature hedging, with brick walls and hedging to the boundaries with Whym Cottage and Crown Farm. An existing Lime tree is located to the north eastern corner of the site and is protected by a Tree Preservation Order (TPO). A Sycamore tree is also located to the north western corner.

Local and national policies relating to the location and supply of housing

7. The Telford and Wrekin CS was adopted in December 2007 covering the period up to 2016 and therefore is extant at the present time. The Council's reason for refusal identifies that the proposal is contrary to Policies CS7 and CS9. Inspectors who determined recent appeals in Telford and Wrekin (refs: APP/C3240/W/15/3008330, APP/C3240/W/15/3138598 and APP/C3240/W/16/3148812) have found that some policies of the CS are out of date. I have taken these decisions into account, but it is necessary that I make my own assessment based on the evidence before me.
8. The Framework aims to boost significantly the supply of housing¹. The Framework makes clear that relevant policies for the supply of housing should not be considered up-to-date if local planning authorities cannot demonstrate a five-year supply of deliverable housing sites².
9. The adoption of the CS predates the publication of the Framework. However, paragraph 211 of the Framework states that policies in Local Plans should not be considered out of date simply because they were adopted prior to the publication of the Framework, and paragraph 215 advises that due weight should be given to such policies according to their degree of consistency with the Framework. In this respect, the projected plan period for the CS runs to 2016. However, the assessment of housing needs underpinning its requirements in Policy CS1 was based on those set out in the now revoked, Regional Planning Guidance rather than on a full objective assessment of needs required by paragraph 47 of the Framework. In such circumstances, Policy CS1 of the CS is not considered to be consistent with the Framework's aim to boost significantly the supply of housing and therefore should be given limited weight.
10. Taking account of the above, Policy CS7 of the CS in seeking to restrict development to three named settlements and strictly controlling development elsewhere is also not consistent with the Framework, and therefore should also

¹ Paragraph 47

² Paragraph 49

be given limited weight. In reaching this view, I have taken into account that Planning Practice Guidance (PPG)³ states that all settlements can play a role in delivering sustainable development in rural areas - and so blanket policies restricting housing development in some settlements and preventing other settlements from expanding should be avoided unless their use can be supported by robust evidence. In the case of Policy CS7, the housing need to which the restrictions relate are those in Policy CS1 of the CS which are out-of-date. In addition, the approach to affordable housing in Policy CS7 is not consistent with Government policy as expressed in the Written Ministerial Statement dated 28 November 2014 and in the PPG⁴.

11. The approach of Policy CS9 of the CS broadly aligns with the Framework objective of seeking to actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling. However, the policy requirement that development will locate in existing centres to minimise the distance people travel is not sufficiently flexible to account for the role all settlements can play in delivering sustainable development in rural areas.
12. The Council has also made reference to Policy H9 of the Wrekin Local Plan (WLP), adopted February 2000, relating to the interpretation of Policy CS7 of the CS, although Policy H9 is not referred to specifically in the reason for refusal. The WLP had an end date of 2006 which has now expired, however some policies have been saved. Nevertheless, national policy relating to housing development has changed significantly since the WLP was adopted in 2000, particularly in terms of the Framework's aim to boost significantly the supply of housing. The housing and spatial strategy in the WLP reflects a historic assessment of housing need up to 2006. Consequently, it is not an appropriate and up-to-date basis to consider current housing needs, to support the Framework's requirement that housing supply is boosted significantly and its approach to sustainable development in rural areas.
13. Based on the evidence in the Telford and Wrekin Housing Land Supply Statement 2016-2021, the Council have indicated that it has a deliverable 5-year housing supply of 12.9 years (including a 5% buffer) as at April 2016 for the period covering 2016-2021. The appellant has not disputed these figures or provided any evidence to the contrary. However, the figures and the objectively assessed need to which the calculations relate have not been formally tested at this time which limits the weight that can be given to it. In such circumstances, there is insufficient tested evidence to conclude with any certainty on this point. Nonetheless, this is not a determinative matter given that the Council's housing supply policies identified are inconsistent with the Framework which limits the weight that can be given to them.
14. With regard to the above, the proposal is necessarily considered in context of the presumption in favour of sustainable development in paragraph 14 of the Framework. As relevant policies are out-of-date, the issue of whether there are any adverse impacts of granting planning permission that would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole, therefore hinges on the assessment of the site and its circumstances.

³ Rural Housing, Paragraph: 001 Reference ID: 50-001-20160519 Revision date: 19 05 2016

⁴ Paragraph: 031 Reference ID: 23b-031-20160519 Revision date: 19 05 2016

15. Paragraph 55 of the Framework indicates that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. The site does not fall within the definition of previously developed land in the Framework as it was previously occupied by agricultural buildings which are excluded. Nevertheless, the site is located within the rural village of Kynnersley which has a limited range of services and facilities comprising of a church, village hall, post box and a small shop for sale of local products. Additional residents associated with the modest contribution to housing supply of 2 houses would enhance the vitality of the rural settlement. There would also be temporary economic benefits with respect to construction activity. The development would also provide support to its limited local services and those in neighbouring villages, including Preston upon the Weald Moors and Crudgington where the nearest primary schools are located, in accordance with the wider aims of the Framework including meeting the economic and social dimensions of sustainability.
16. The proposed houses would not be in an isolated location in the countryside and would be surrounded on 3 sides by existing housing. Consequently, the development would not extend unacceptably into the countryside. Furthermore, subject to future design and layout details to be provided as part of reserved matters, the scheme could reflect the surrounding pattern of development and context. The development of the site would have a positive effect on the character and appearance of the site and its surroundings, given the existing site is currently vacant and overgrown. In principle, there would be no conflict with the design aspect of the environmental dimension of sustainability subject to appropriate details being provided as part of the reserved matters.
17. Turning to transport matters, the village has very limited bus services to and from surrounding villages during the daytime and between Mondays and Fridays only. As a consequence, regularly travelling by bus to access employment, schools and healthcare facilities would be inconvenient and impractical. Furthermore, as the roads to neighbouring villages have no associated footway for pedestrians and footpaths/bridleways are unlit I consider it unlikely that services and facilities in other villages would be accessed by walking and cycling, particularly in evenings and during periods of inclement weather. In this respect, there would be conflict with the aims of Policy CS9 of the CS in so far as it seeks to opportunity to access services and facilities by public transport, walking and cycling.
18. The development of this site within a rural area with few services and with limited accessibility by means other than the car would be unsustainable in transport terms. However, greater dependency on the car is inevitable in rural locations and the Framework indicates that different policies and measures will be required in different communities, noting that opportunities to maximise sustainable transport solutions will vary from urban to rural areas. The issue of broadband access has also been raised, but no substantive evidence has been provided in this respect and therefore I can offer little weight to that matter.
19. The scale of the proposal could reasonably be considered to be limited development outside of the settlements as stated in Policy CS7 of the CS. Furthermore, given that the site relates to infill development within the village envelope of Kynnersley, I do not consider it to be open countryside. In any case, only limited weight can be afforded to Policy CS7. In this respect, the

conflict with Policy CS7 arising from the absence of compliance with the affordable housing requirement is outweighed by the Written Ministerial Statement dated 28 November 2014 and the PPG. There is also conflict with Policy CS9 of the CS given the site is located outside of the existing centres identified in the CS. However, as previously mentioned this policy is also given limited weight.

20. The proposal would conflict with emerging Policies SP 3, SP 4 and HO10 of the TWLP which taken together seek to direct housing development in the rural areas to five named villages and settlements with good infrastructure, which does not include Kynnersley. Nevertheless, whether more than five villages may need to be identified within the TWLP in order to accommodate expected levels of housing growth and need is a matter for the examination in public. I therefore give little weight to the conflict with emerging policies of the TWLP.
21. I conclude that the environmental harm resulting from car dependency, and the limited weight given to identified conflict with Policies CS7 and CS9 of the CS and emerging Policies SP 3, SP 4 and HO10 of the TWLP, would not be sufficient to significantly and demonstrably outweigh the benefits of the provision of 2 additional dwellings to be delivered in a location immediately adjacent to existing housing. In this respect, local services, albeit limited, would be supported by additional residents and participation in community and social events could be increased. On balance, I therefore conclude that when assessed against the policies of the Framework as a whole, the scheme amounts to sustainable development.
22. In reaching the above view, I have taken into account the conclusions of the Inspector who determined a recent appeal at Rodington⁵ relating to a residential development of up to 4 dwellings. However, it is evident that the circumstances of that site with respect to its location in open countryside, effect on rural character and proximity to village facilities and services is different from the proposal before me. I have, therefore, determined the appeal proposal based on its own merits.

Conditions

23. The application was made in outline with all matters reserved except access and it is, therefore, necessary to impose conditions relating to the submission of reserved matters and implementation of development.
24. I have imposed a condition specifying the relevant approved plans relating to the red line site boundary and the means of access. This provides certainty given the submission of additional illustrative drawings relating to reserved matters for which approval is not granted in outline.
25. The dwellings would utilise an existing access and driveway which currently serves Swift Barn, Willowdene, Greenbank and The Stables. I observed that the road and access are lightly trafficked with only limited vehicle movements associated to the existing dwellings and no existing pedestrian footways. There is no evidence before me which indicates that there have been any previous accidents associated to the use of the existing access. In this respect, the new access to each dwelling, associated driveways and parking arrangements would be a safe and acceptable highway solution for the limited increase in traffic and

⁵ APP/C3240/W/16/3148812

- parking demand which would arise from the development for both vehicles and pedestrians. The access arrangements are therefore acceptable, subject to conditions to secure full details and the implementation of the access, parking and turning areas prior to commencement of the development.
26. I note that the Council raised no concerns with respect to the living conditions of occupiers of neighbouring properties. Based on the evidence before me, including the illustrative plans, together with observations during my site visit, I have no reason to take a different view and consider that development of the site is feasible to provide adequate separation to surrounding properties with respect to layout, scale, appearance and landscaping. These are issues which would appropriately be dealt with and controlled at the reserved matters stage.
27. A Tree Report submitted by the appellant indicates that the Lime tree located to the north eastern side of the plot, subject to a TPO, is a large mature specimen in good health and therefore should be retained. In contrast, an existing Sycamore tree is a poor specimen with no long term future due to its proximity to a neighbouring property, but may be worth retaining to soften the landscape. Having reviewed the Tree Report it does not conform to the requirements of BS:5837:2012⁶. Nonetheless, based on my observations, an appropriate layout of the development could be achieved without causing harm to the health and longevity of the protected tree and others existing within the site. It is therefore necessary to impose a pre-commencement condition to ensure that the TPO tree could be suitably protected through the submission, agreement and implementation of a scheme for the protection of the retained trees (the tree protection plan) and appropriate working methods (the arboricultural method statement) that accords with BS:5837:2012.
28. I have taken account of the recommendation of the Council drainage officer of a condition to ensure satisfactory means of foul and surface water drainage and consider this an appropriate requirement of the development. It is necessary to ensure the submission and agreement of these details prior to commencement, including an agreed timetable for implementation and maintenance thereafter.
29. The Council have recommended that a condition be imposed related to submission and approval of details of materials. However, such matters relate to the appearance of the development which is a matter reserved for subsequent approval.
30. There is no evidence before me that the development would have a detrimental impact upon ecology or local biodiversity. Furthermore, a condition relating to nesting birds is not necessary given the tree protection measures proposed.

Conclusion

31. For the reasons given above, I conclude the appeal should be allowed and planning permission granted subject to conditions set out in the attached schedule.

Gareth Wildgoose

INSPECTOR

⁶ BS 5837:2012 Trees in relation to design, demolition and construction - Recommendations

SCHEDULE

CONDITIONS

- 1) Details of the layout, scale, appearance and landscaping (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins 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 three years from the date of this permission.
- 3) The development hereby permitted shall begin not later than two years from the date of the approval of the last of the reserved matters to be approved.
- 4) This permission relates to the site as denoted by the red line on Drawing No: 1A-GD-Jan-16 and the means of access only as indicated on Drawing No: ND/15/SK1 Rev A.
- 5) No site clearance, preparatory work or development shall take place until a scheme for the protection of the retained trees (the tree protection plan) and the appropriate working methods (the arboricultural method statement) in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) shall have been submitted to and approved in writing by the local planning authority. The scheme for the protection of the retained trees shall be carried out as approved. In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars.
- 6) Notwithstanding condition 4, the development hereby permitted shall not begin until full details of the access, driveways and turning areas to allow vehicles to turn so that they may enter and leave each dwelling plot in forward gear, have been submitted and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details prior to the first occupation of a dwelling and permanently retained as such thereafter.
- 7) The development hereby permitted shall not begin until details of works for the disposal of foul and surface water have been submitted to and approved in writing by the local planning authority. The foul and surface water drainage scheme shall be carried out and thereafter managed and maintained in accordance with the approved details. Those details shall include:
 - i) a timetable for its implementation, and;
 - ii) a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage scheme throughout its lifetime.

END OF SCHEDULE OF CONDITIONS