

Appeal Decision

Hearing held on 13 December 2016

Site visit made on 13 December 2016

by Jonathan Price BA(Hons) DMS DipTP MRTPI

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

Decision date: 13 February 2017

Appeal Ref: APP/J3015/W/16/3154282

Land at Field Farm, Ilkeston Road, Stapleford, Nottinghamshire NG9 8JJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval to details required by a condition of a planning permission.
 - The appeal is made by W Westerman Limited against the decision of Broxtowe Borough Council.
 - The application Ref 15/00841/REM, dated 24 November 2015, sought approval of details pursuant to condition No 1 of a planning permission Ref 11/00758/OUT, granted on 4 November 2014.
 - The application was refused by notice dated 20 April 2016.
 - The development proposed is outline application for residential development for up to 450 dwellings with all matters reserved except for access.
 - The details for which approval is sought are reserved matters for Phase 1 of development for 118 homes (including 33 affordable homes), flood attenuation, open space and associated infrastructure.
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Decision

1. The appeal is allowed and the reserved matters are approved, namely Phase 1 of development for 118 homes (including 33 affordable homes), flood attenuation, open space and associated infrastructure, details submitted in pursuance of condition No 1 attached to planning permission Ref 11/00758/OUT dated 4 November 2014, subject to the conditions set out in the Schedule attached to this decision.

Preliminary Matter

2. The application for reserved matter approval related to the first phase of an outline planning permission for up to 450 dwellings, and provided details of the appearance, landscaping, layout and scale for 118 dwellings, including details of a flood attenuation lagoon, open space and associated infrastructure. Vehicular access to the site from the Ilkeston Road had been the subject of details already approved in the outline planning permission.

Main Issue

3. The main issue in this case is whether the proposals would provide an acceptably designed housing development which would respond adequately to the character and appearance of the immediate surroundings.
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Reasons

4. The appeal relates to a rectangular parcel of farmland of some 4.3 hectares situated just beyond the present northern built-up extent of Stapleford. The existing development in this locality mainly comprises somewhat varied but generally rather conventional 20th century suburban housing. The A6007 Ilkeston and Trowell Roads form the southern and western site boundaries respectively, which face existing frontage housing. A small stream, Boundary Brook, forms the northern site boundary, beyond which there is an open field which is to remain undeveloped. A public footpath marks the eastern site boundary beyond which is the land which will accommodate the later phases of the outline housing permission.
5. This entire outline planning permission relates to an 11 hectare site in total and allows for up to 450 dwellings. Approval was granted on 4 November 2014. This followed the adoption of the Broxtowe Aligned Core Strategy (BACS) in September 2014 which, through the Spatial Strategy in Policy 2, allocated the housing in a Sustainable Urban Extension (SUE) at Field Farm.
6. The supporting text in paragraph 3.2.14, which follows BACS Policy 2, expects new SUE developments to be 'exemplar' in terms of their design, and to incorporate measures to adapt to and mitigate the effects of climate change, and reduce its causes, as required through BACS Policy 1. Although paragraph 3.2.14 is supporting text, and therefore does not have full policy status, it remains part of the adopted plan and explains how the identified policies should be applied.
7. I am persuaded that this proposal cannot be considered contrary to Policy 2 of the BACS as this is the spatial policy that made the strategic allocation for housing on this site. Whether these reserved matter details meet an exemplar standard required under paragraph 3.2.14 should be judged against the design criteria of the relevant policy which is BACS Policy 10. In respect to SUEs addressing climate change paragraph 3.2.14 refers to BACS Policy 1.
8. Consequently, it is these BACS policies, 1 and 10, against which these proposals should be assessed. The exceptional circumstances which justified the strategic housing allocation of the Field Farm site, and the removal of this land from the Green Belt, have already been applied and related to the need to provide an adequate future supply of housing. Exceptional circumstances cannot now reasonably be applied to substantiate design requirements which exceed what would be necessary to satisfy BACS policies 1 and 10.
9. The appeal has arisen because the appellant considered further negotiations would have required quite wholesale changes to the scheme. The details had been amended already to respond to the OPUN design review, the public consultation exercise and the pre-application discussions with the Council. The appellant considers the further changes sought by the Council to be unreasonable and beyond what had been established through the previously agreed illustrative masterplan and Design and Access Statement (DAS).
10. The Council considers the quality of the scheme falls short of being exemplar, and fails to meet the required standard of design, due mainly to the proposals providing a uniform spread of dwellings which fail to respond to character changes across the site. The houses are also considered by the Council to be of an unsatisfactory architectural design, redolent of the generic styles used in

typical late 20th century volume housebuilding, rather than being 'of their time' and taking the opportunity to provide innovation to both create a sense of place and lift the quality of the built environment in this area.

11. The Council also makes reference to the Field Farm site being in the control of an experienced housebuilder with a willingness and ability to build quickly and that this was a factor that weighed heavily in favour of allocating the site for development. The appellant makes reference to being a long-established, medium-sized builder based in Broxtowe, to having led on a number of large-scale developments locally and to having not previously resorted to an appeal due to a failure to agree with the Council over design issues.
12. Based on this background evidence, it is reasonable to conclude the Council would be familiar with the developments previously carried out by the appellant and had some confidence in this company delivering this strategic housing allocation at the pace and to the quality expected. Whilst the DAS deals mainly with broad design concepts, there is clear reference to the appellant's previous housing developments and nothing to suggest the intention was to depart radically from the more conventional designs previously used, or to produce the more innovative, contemporary architecture now sought by the Council.
13. Although the outline planning permission contains no condition which requires that the reserved matters adhere to the design concept and principles contained in the DAS, there is an informative note to the applicant to this effect. Whilst there are no planning powers to enforce this requirement, it indicates the Council had supported broadly the design approach set out in the DAS. I find little in the DAS which would lend support to the Council's position that the housing on this site should be of an authentically contemporary character throughout.
14. The layout of housing accords with the illustrative masterplan which is a requirement of condition 3 of the outline permission. A relatively even spread of housing across the site is proposed, apart from an undeveloped area in the north-west corner which will accommodate an attenuation lagoon. Following the masterplan, the main spine road would extend north from the Ilkeston Road junction and then turn east from where it will continue to serve later phases of housing.
15. The site is a gently sloping piece of farmland and does not provide a substantial degree of landscape variety for the scheme to integrate and engage with. Three separate character areas of housing are proposed – titled Contemporary, Boulevard and Woodland. These have emerged following the developer's response to the OPUN design review and subsequent negotiations with the Council. These adequately address the characteristics of the site and provide a relatively clear urban edge along the Ilkeston Road frontage, a firm linear identity to the central spine of development and a more spacious character to the housing within the parts facing towards stream and lagoon area.
16. I find the Council's view that the layout would be unacceptable due to not being firmly rooted in, and appearing to develop naturally from the existing fields, somewhat nebulous. My reading of the layout is that it would respond adequately to the quite limited changes in character across the site and would offer the through-views sought towards the lagoon, the stream and Stapleford Hill. I consider the house designs, layouts and densities generally acceptable

and that these provide a reasonable degree of differentiation between the three character areas.

17. Whilst the Council and other interested parties might have preferred bolder, more cutting-edge designs than those provided, I find the contemporary designs submitted in this scheme to be satisfactory. The approach to plots 80 – 118 would offer modernity, and a strong urban edge to the Ilkeston Road frontage, but not be of such a contrastingly contemporary character that might otherwise clash harmfully with the Boulevard and Woodland designs which complete the street-scene. I also find some contradiction between the Council's desire for a higher density along the contemporary Ilkeston Road frontage and its concerns over the low-value, uninspired character to the area of affordable housing, to which I can find little foundation.
18. The southern site frontage along Ilkeston Road would provide a positive design approach that would be sufficient to lift the general appearance of the street scene and compensate for the loss of the open fields. In this respect, the focus for the contemporary urban housing proposed along the parts of the site fronting Ilkeston Road would be appropriate and provide a well-defined counterfoil to the rather ordinary blocks of housing facing the opposite side of the street.
19. The plans for this prominent, leading front to the development would provide the coherent visual statement needed to enhance the somewhat mediocre appearance of the Ilkeston Road, and establish a suitably firm urban edge and strong visual sense of place. I have considered the Council's concerns over the proposals not continuing the contemporary housing up to the main site entrance, and avoiding a rather poorly defined and randomly positioned break at the point where the Boulevard character housing commences, but consider the street-scene as a whole would have a satisfactory degree of coherence as proposed.
20. The more traditional design approach proposed for the Woodland and Boulevard character areas would also be appropriate. The house-types have already been the subject of amendments to improve their authenticity and lessen the impression of being pastiche. However, I am not persuaded that further changes would be justified, such as the introduction of chimneys or better considered fenestration and detailing. For example, I see no objection to the quite pleasing traditional dwellings shown in Figure 3 for Plot 1-5 and 23-26 (house-types Windsor, Kempton, Hampton, Lingfield, Stratford and Hereford).
21. Whilst the architectural designs of the houses are considered to be acceptable I agree with the Council that their satisfactory final appearance would be dependent upon appropriate and good quality materials. The proposals include a materials plan for the houses and for the differentiated sections of road surfacing. The parties have agreed to a condition reserving approval of the frontage boundary treatments and planting along the Ilkeston Road and the appellant has indicated agreement to a condition to cover later agreement of hard surfacing treatments. Given the Council's concerns over the quality of the facing materials proposed for the different house types, this would be a further matter appropriately addressed through a condition.
22. Whilst I can appreciate the Council's desire for an innovative and contemporary housing development, which has strong support from Stapleford Town Council,

STRAG¹ and other interested parties, I can find little to substantiate the position that Field Farm would be an inappropriate location for a more conventional design of housing estate.

23. Great weight is placed by the Council on the supporting text in paragraph 3.2.14 of the BACS over the expectation that the design of housing within SUEs be exemplar. However, there is little further which expands on what this should mean or which sets an explicit requirement for an entirely contemporary design approach to housing.
24. The exemplar test has to be judged against BACS Policy 10 which provides the criteria over the assessment of housing design. The overall density and mix of housing, the massing, scale and proportion of the buildings, and the general texture of development, including street patterns, plot sizes, orientation and positioning of the units and the layout of spaces, would all be satisfactory when assessed against the requirements of part 2 of BACS Policy 10.
25. The architectural styles and detailing provide for a mixture of house types, which align to three character areas, and range from the more traditional to the quite contemporary. These house types integrate well within the site and, whilst clearly none are of a highly innovative design quality, are all attractive and appropriate to the character of the neighbouring residential areas. Subject to good quality external materials, the architecture proposed would comply with part 2 of BACS Policy 10.
26. Consequently, this scheme would succeed in making a positive contribution by creating a sense of place and provide an attractive housing environment which reinforced valued local characteristics. The proposals would therefore comply with the overarching requirements of part 1 of BACS Policy 10.
27. Because the proposals would satisfy the requirements of BACS Policy 10 over design, the reserved matters would be exemplar in this respect, as required by the supporting text to BACS Policy 2 set out in paragraph 3.2.14.
28. Paragraph 3.2.14 also states that new SUEs will incorporate measures to adapt to and mitigate the effects of climate change, and reduce its causes, and refers to BACS Policy 1. The Council had reported the details of this proposal to its Planning Committee on 20 April 2016. There is little presented to the Committee over the deficiencies in respect of the requirements of Policy 1, beyond the comment that green roof and solar panels could have been integral to the proposals.
29. The reserved matter application was accompanied by a Sustainability Statement and Energy Audit. This quite briefly sets out how the development would achieve energy and water use savings, limit CO2 emissions and adapt to climate change through the proposed sustainable drainage systems and flood attenuation measures (including the proposed lagoon).
30. The evidence suggests the development would be constructed to at least meet the minimum standards that apply nationally, such as through the Building Regulations. There is little substantiation from the Council over how the design and layout of the development might improve upon what is currently proposed or how additional measures could be designed-in to mitigate and adapted to climate change.

¹ Stapleford and Trowell Rural Action Group

31. The Council notes that, as this proposal relates to undeveloped land, there would be an opportunity for a development-wide infrastructure that could reduce the energy load of new dwellings and facilitate on-site renewables. However, there is no evidence that such requirements were identified at the outline planning permission stage which would have been the opportunity to set an appropriate benchmark, rather than seek these at this reserved matters stage.
32. The Council has not provided any local targets in respect of the requirements for development proposals to reduce carbon emissions and energy use. The evidence does not show the sustainability measures proposed in this scheme to fall short of any national requirements. This proposal has outlined its approach to sustainable design and adaptation, reducing carbon dioxide emissions and flood risk and sustainable drainage which would meet with the requirements of BACS Policy 1.

Other Matters

33. The main issue in this appeal concerns design and the discussion at the hearing revolved around this. However, I have had regard to the other matters raised by interested parties at both the application and appeal stages.
34. There would be no evidence to suggest that this phase of housing would increase the risk of flooding, either on the appeal site or in neighbouring areas. This issue was addressed at the outline planning stages and the measures proposed, which in this phase of housing includes the sustainable drainage measures provided by the attenuation lagoon, the re-profiling works to Boundary Brook, the compensatory measures on the northern floodplain and the combined on-site water storage. These measures have the agreement of the Environment Agency.
35. Outline planning permission has been granted in which transportation issues were addressed and details of the main vehicular access agreed. This reserved matters proposal would not provide the opportunity to re-visit issues such as the adequacy of the site access, the level of public transport provision and off-site highways works.
36. This first phase proposal would also not provide a valid opportunity to re-consider the arrangement of open space and housing density across the entire 11 hectare housing site.

Conditions

37. Consideration has been given to the conditions recommended by the Council which the appellant has confirmed agreement to. It is necessary in the interests of certainty that a condition requires that the development proceeds in accordance with the submitted plans. In the interests of the satisfactory appearance of the development it is further necessary that additional conditions require that the southern boundary treatments, and the materials to be used in the internal road surfacing and the external surfaces of the dwellings, accord with details that shall have first been submitted to and agreed by the Council.

Conclusion

38. Part 7 of the National Planning Policy Framework (the Framework) sets out the Government's policies for requiring good design and paragraph 57 states the importance to plan positively for the achievement of high quality and inclusive design for all development. BACS Policy 10 provides the robust and comprehensive design requirements over the quality of development encouraged by paragraph 58 of the Framework.
39. The requirements of the BACS for an exemplar quality of design for this SUE would not clearly demonstrate the requirement for an entirely contemporary and innovative design approach throughout this scheme. The Council's position would therefore conflict with Paragraph 60 of the Framework which requires that planning decisions should not attempt to impose architectural styles or particular tastes through unsubstantiated requirements to conform to certain development forms or styles.
40. These proposals would not be an example of the poor design whereby paragraph 64 of the Framework requires development be refused for failing to take the opportunities available for improving the character and quality of an area and the way it functions. The house types and layouts proposed would function well and, in relation to the character of the existing housing in this location, add to the overall quality of the area.
41. Therefore, the overall design quality proposed would not be poor or result in significant or demonstrable harm. The reserved matters would respond adequately to the site's context and create a distinctive place that would improve the appearance of the immediate surroundings. As a consequence the proposals would comply with BACS policies 1, 2 and 10 and with paragraph 14 and part 7 of the Framework. The proposals would provide an acceptably designed housing development which would respond adequately to the character and appearance of the immediate surroundings and, for these reasons, I conclude that the appeal should be allowed.

Jonathan Price

INSPECTOR

Schedule of Conditions

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- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: 14064-02 Site location plan; 14064/PERGOLA Pergola floor plan and elevations; 14064-01C Proposed site plan; 14064-03-01A Indicative Street-scenes – sheet 1; 14064-03-02 Indicative Street-scenes – sheet 2; 14064-06A Character areas plan; 14064-07B Boundary treatments plan; 14064-09B Site sections; 14064-10 Character types; 105N/FFS/CON01B Constraints drawing with overlay dwellings; 105N/FFS/CON02B Constraints drawing without overlay dwellings 10172 SK008D Proposed junction visibility; 10172-130B Proposed external works layout; 10172-210D Proposed external levels layout; 10172-230A Private external works layout; 01G Indicative landscape strategy; Boulevard house types: 14064/AS/BO/01 Ascot floor plans; 14064/AS/BO/02 Ascot elevations; Catterick 14064/CAT/BO/01 & 03 Catterick floor plans; 14064/CAT/BO/02 Catterick elevations; 14064/CHE/BO/01A Cheltenham floor plans & elevations; 14064/DAL/BO/01 Dale floor plans; 14064/DAL/BO/02 Dale elevations; 14064/HAM/BO/01 Hampton floor plans; 14064/HAM/BO/02 Hampton elevations; 14064/HER/BO/01 Hereford floor plans; 14064/HER/BO/02 Hereford elevations; 14064/KEL/BO/01 Kelso floor plans & elevations; 14064/KEM/BO/01 Kempton floor plans & elevations; 14064/LNG/BO/01A Lingfield floor plans & elevations; 14064/STR/BO/01 Stratford floor plans; 14064/STR/BO/02 Stratford elevations; 14064/WET/BO/01A Wetherby floor plans; 14064/WET/BO/02 Wetherby elevations; 14064/WIN/BO/01 Winchester floor plans & elevations; Contemporary house types: 14064/CHE/CO/01A Cheltenham floor plans & elevations; 14064/CHS/CO/01 Chester 1 bed V1 floor plans & elevations; 14064/CHS/CO/02 Chester 1 bed V2 floor plans & elevations; 14064/CHS/CO/03 Chester 2 bed V1 & V2 floor plans; 14064/CHS/CO/04 Chester 2 bed V1 elevations; 14064/CHS/CO/05 Chester 2 bed V2 elevations; 14064/CHS/CO/06 Chester 2 bed V3 floor plans; 14064/CHS/CO/07 Chester 2 bed V3 elevations; 14064/SAN/CO/01A Sandown floor plans; 14064/SAN/CO/02A Sandown elevations sheet 1; 14064/SAN/CO/03 Sandown & Cheltenham floor plans; 14064/SAN/CO/04A Sandown & Cheltenham elevations; 14064/SAN/CO/05 Sandown elevations sheet 2; 14064/SAN/CO/06 Sandown elevations sheet 3; 14064/SAN/CO/07 Sandown elevations sheet 4; 14064/SAN/CO/08 Sandown elevations sheet 5; 14064/SAN/CO/09 Sandown elevations sheet 6; 14064/YOR/CO/01A York floor plans & elevations; Woodland house types: 14064/AS/WO/01 Ascot floor plans; 14064/AS/WO/02 Ascot elevations; 14064/CHA/WO/01A Chatsworth floor plans – plots 53 & 54; 14064/CHA/WO/02 Chatsworth elevations – plots 53 & 54; 14064/CHA/WO/03A Chatsworth floor plans – plot 8; 14064/CHA/WO/04A Chatsworth elevations – plot 8; 14064/GRO/WO/01 Grosvenor floor plans; 14064/GRO/WO/02 Grosvenor elevations; 14064/HAM/WO/01 Hampton floor plans; 14064/HAM/WO/02 Hampton elevations; 14064/KEM/WO/01 Kempton floor plans & elevations; 14064/LNG/WO/01A Lingfield floor plans & elevations; 14064/WET/WO/01A Wetherby floor plans; 14064/WET/WO/02 Wetherby

elevations; 14064/WIN/VO/01 Winchester floor plans & elevations; 14064/WIND/VO/01 Windsor floor plans; 14064/WIND/VO/02 Windsor elevations; 14064/GAR04 Double garage – Boulevard & Woodland floor plans & elevations; 14064/GAR01B Single garage – Boulevard & Woodland floor plans & elevations; 14064/GAR03B Triple hipped garage – Woodland floor plans & elevations and 14064/GAR05 Double garage – Contemporary floor plans and elevations.

- 2) Notwithstanding the details as shown on drawing numbers 14064-07B (Boundary treatments plan) and 01G (Indicative landscape strategy), the position of the railings, fencing and hedgerow to the south of the dwellings beside Ilkeston Road is not agreed. No above ground works relating to the construction of these dwellings shall commence until details of the south site boundary treatments have been submitted to and agreed in writing by the Local Planning Authority. These aforementioned dwellings shall not be first occupied until the agreed boundary treatments have been installed.
- 3) Notwithstanding the details shown in the Materials Plan 14064-08 no development shall commence until details of the materials to be used in the road surfaces and in the external surfaces of the dwellings hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

---end of conditions---

APPEARANCES

FOR THE APPELLANT:

Mr Morag Thomson LL.B Solicitor and LARTPI	Partner, Eversheds
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Christopher Chaplin	Armstrong Burton Architects
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Bhupinder Thandi BA Hons MA	Cerda Planning
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FOR THE LOCAL PLANNING AUTHORITY:

Emma Palmer-Barnes BA MA MRTPI	South Area Team Leader
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Steffan Saunders BA MA MRTPI	Head of Neighbourhood Prosperity
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Suzanne Dempsey	Design Consultant
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Councillor Richard MacRae	Ward Councillor
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INTERESTED PERSONS:

Ken Mafham	Interested Party
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