
Appeal Decision

Site visit made on 21 March 2017

by D Boffin BSc (Hons) DipTP MRTPI Dip Bldg Cons (RICS) IHBC

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

Decision date: 11 April 2017

Appeal Ref: APP/H1840/W/16/3165182

Land at Aldington Lodge, Offenham Road, Evesham, Worcestershire WR11 3BD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent, agreement or approval to details required by a condition of a planning permission.
 - The appeal is made by Mr Dean Shaw of Redrow Homes against the decision of Wychavon District Council.
 - The application Ref W/16/01029/RM, dated 18 April 2016, sought approval of details pursuant to condition No 2 of a planning permission Ref W/14/02708/OU, granted on 8 September 2015.
 - The application was refused by notice dated 30 September 2016.
 - The development proposed is details of access, appearance, landscaping, layout and scale for 50 dwellings and open space.
 - The details for which approval is sought are: access, appearance, landscaping, layout and scale.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Notwithstanding the description of development set out above, which is taken from the application form, it is clear from the plans and the accompanying details before me that the development comprises 48 dwellings and open space. The Council dealt with it on this basis and so shall I.
3. The Council's Officer Report states that the outline planning permission granted in September 2015 included means of access but the Officer Report for the outline application¹ states that "*The application submissions indicate potential access points, although no certain details of access or details information has been provided. As such, details of access is also to be treated as a reserved matter and the applicant raises no objection to this approach*". Condition No 2 of that permission requires details of access to the development to be obtained from the Local Planning Authority together with the details of the appearance, landscaping, layout and scale of the development. I have dealt with the appeal on this basis.
4. The reserved matters planning application was supported by a number of reports including a Green Infrastructure and Biodiversity Management Plan for Phase 2 but I have not been provided with a copy of this report.

¹ W/14/02708/OU

Main Issue

5. The main issue is whether or not the layout of the proposed development would be acceptable with regard to the level of Green Infrastructure to be provided and development plan and national policies.

Reasons

6. The appeal site comprises a former orchard adjacent to a housing development that is under construction. The majority of orchard trees have been removed from the site. The north/north-eastern boundary of the site is in close proximity to a railway line, the A46 and countryside that is on the opposite sides of the road and railway.
7. As stated above, outline planning consent was granted in 2015 for up to 55 dwellings on the appeal site. I acknowledge that this is the planning permission for the development. However, the reserved matters to be considered through Condition No 2 include layout. The Town and Country Planning (Development Management Procedure) (England) Order 2015 states that layout means *"the way in which buildings, routes and open spaces within the development are provided, situated and orientated in relation to each other and to buildings and spaces outside the development"*.
8. S38(6) of the Planning and Compulsory Purchase Act 2004 states that if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise. The South Worcestershire Development Plan (SWDP) was adopted by the Council in February 2016 after the outline planning consent was granted but I need to determine this appeal on the basis of the development plan which is in place at the present time.
9. SWDP Policy SWDP 5 states that housing development proposals are required to contribute towards the provision, maintenance, improvement and connectivity of Green Infrastructure (GI) and that for greenfield sites above one hectare (ha) (gross) 40% GI is required. As the site is around 1.8 ha 40% GI would be required and the Council have stated that this equates to 0.75 ha. The proposal would provide 0.45ha² of GI which is substantially below the amount required under this policy. Footnote 20 to this policy states that provision of GI at a lower level than that required by the policy will need to be justified by a robust viability assessment. No such assessment is in front of me.
10. I acknowledge that Condition No 21 of the outline consent requires that at least 0.35 ha of public open/amenity space shall be included as part of the reserved matters and that the proposal would satisfy that condition. However, the Worcestershire Green Infrastructure Strategy 2013 -2018 states that GI comprises many different elements including biodiversity, the landscape, the historic environment, the water environment and publicly accessible green spaces and informal recreation sites. This document also states that GI provision in residential developments can be varied and can include informal space, footpaths, bridleways, cycleways, SuDS, natural habitats and street trees³.

² Taken from Appendix 2 of Appellant's Statement of Case and Decision Notice

³ Page 21 – paragraph 5.15

11. As such, the GI would include the public open/amenity space but it is not its sole element. Moreover, it is reasonable to consider that the amount and location of GI would be treated as an element of the layout for the site which is part of the reserved matters. I note that the Council used an informative note on the decision notice for the outline planning permission in relation to the incorporation of GI in any reserved matters application. Planning Practice Guidance (PPG) states that informative notes do not carry any legal weight and cannot be used in lieu of planning conditions. However, a condition requiring GI was not required on the outline planning permission as layout was a reserved matter.
12. The layout does include an appreciable area of public open space adjacent to the eastern boundary of the site. However, due to the proposed layout there appears to be limited opportunities for GI throughout the remainder of the site and the GI area adjacent to the north/north-eastern boundaries is very narrow in places reducing its access, recreation and landscape value. Due to the northern part of the site being in close proximity to the railway, major roads and the surrounding countryside GI in this part could soften the impact of the built form.
13. Taking into account all of the above I consider that the layout of the proposed development is not acceptable due to insufficient GI. This would be contrary to SWDP Policy SWDP5 and the National Planning Policy Framework at paragraph 58 which sets out that planning decisions should aim to ensure that (amongst other things) developments incorporate green and other public open space and are visually attractive as a result of good architecture and appropriate landscaping.
14. I note that the scale and appearance of the dwellings would be similar to those that are being constructed on the adjacent site and as such they would be appropriate for this development. The Council have stated that the landscape plans and management/maintenance plan as submitted are agreeable. The landscaping and the amount of GI provided on the site are interlinked and as stated above I consider that the amount of GI proposed is not acceptable. However, I have no reason to dispute that the planting schedules and the management/maintenance plans are acceptable.
15. The means of access is to be provided through the adjacent development site. I note that the Highways Authority have raised concerns in relation to the completion of off-site improvement works. However, this matter could be controlled by means of a condition if I was minded to allow the appeal. The lack of harm in relation to these reserved matters is a neutral consideration and does not outweigh the harm that I have identified in relation to the layout of the proposal.

Conclusion

14. For the reasons given above I conclude that the appeal should be dismissed.

D. Boffin

INSPECTOR