

## Appeal Decision

Site visit made on 28 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: 20 April 2017**

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**Appeal Ref: APP/W1850/W/16/3163181**

**Land adjoining Crossways, Shirlheath, Kingsland, Leominster,  
Herefordshire HR6 9RF**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Hereford Oak Buildings Ltd against the decision of Herefordshire Council.
  - The application Ref 162629, dated 10 August 2016, was refused by notice dated 31 October 2016.
  - The development proposed is 6 No dwellings and 4 No garages.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues in this case are:-
  - The effect on the character and appearance of the area; and
  - Whether the site would be a suitable location for dwellings having regard to the housing strategy of the development plan.

### Reasons

#### *Housing land supply*

3. Both parties agree that the Council cannot demonstrate a 5 year supply of housing land (HLS) as required by paragraph 47 of the National Planning Policy Framework (Framework). The Council have stated that they can currently demonstrate 4.39 years of HLS.
4. Where the Council is unable to demonstrate a 5 year HLS, paragraph 49 of the Framework indicates that relevant policies for the supply of housing should not be considered up-to-date. Furthermore, paragraph 49 of the Framework states that all housing applications should be considered in the context of the presumption in favour of sustainable development.
5. It is, therefore, necessary to consider whether there are any adverse impacts that would significantly and demonstrably outweigh the benefits of the proposal.

#### *Character and appearance*

6. The appeal site comprises part of an undeveloped field adjacent to a junction on the A4410 with a road that leads to the settlement of Shirlheath. There are fields to the north, east and south of the appeal site. I note that the fields to the east do contain buildings which appear to be associated with an equestrian
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use. A hedge exists on part of the frontage of the appeal site and there are hedges and mature trees on part of the southern boundary and the western boundary. There is metal estate type fencing on the corner of the site adjacent to the road junction. This is reflected on the opposite side of the road around the corner of the field to the south.

7. Both parties have drawn my attention to a previous appeal decision on this site.<sup>1</sup> I have taken this decision into account in my consideration of this appeal. However, I have not been provided with the full details of that case. The appellant has stated that a Landscape and Visual Impact Assessment (LVIA) was submitted together with a landscaping scheme, in support of the planning application that is subject to this appeal, in order to address concerns raised by the previous Inspector. The LVIA states that the site is within the Principal Settled Farmlands landscape type. It goes on to state that these are settled agricultural landscapes of dispersed, scattered farms, relic commons and small villages and hamlets. The LVIA distinguishes between the effect of the proposal on the landscape and visual receptors.
8. On approaching the site on the A4110 from either direction there are views across the site into the surrounding countryside. I acknowledge that these views include nearby dwellings and some of the industrial units that are adjacent to the site. However, the industrial units are an appreciable distance from the A4110 and they are only partly visible above and through gaps in the boundary landscaping. There are individual dwellings adjacent to the A4110 but the row of dwellings which appears to indicate the entrance to Shirlheath is an appreciable distance from the A4110 and they are only single storey in height.
9. Consequently, even though there are industrial units adjacent to the site and dwellings nearby, this does not significantly diminish the distinct rural character and agricultural nature of the appeal site. The site's contribution to the rural landscape is reinforced by the views across it into the surrounding countryside and its prominent location adjacent to the A4110 and the entrance to the settlement of Shirlheath.
10. I have given careful consideration to the appellant's landscape evidence, including the LVIA and fully appreciate that the landscape to which the appeal site belongs is not rare, or of exceptional quality, and that the site itself has no particular landscape or historic heritage designation. I acknowledge that the site is relatively small in percentage terms to the surrounding landscape but it is an integral part of the local landscape character. Furthermore, for the reasons stated above, I consider that the impact of the existing industrial units and dwellings on the landscape receptors is over emphasised. In my judgement, the development would introduce an overtly urban form of development on this prominent site.
11. One of the core principles of the Framework is that the intrinsic character and beauty of the countryside should be recognised. Building 6 new houses with associated infrastructure on the appeal site would lead to an erosion of that natural quality, and as a result, the proposal would cause landscape harm. This magnitude of change (and thus of harm) from a rural landscape of medium sensitivity to a housing development would, given the proposed mitigation and reflecting the presence nearby of the industrial units and dwellings, be moderate.

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<sup>1</sup> APP/W1850/W/15/3129906 – 18 January 2016

12. In terms of the development's visual impact due to the topography and the hedgerows and trees in the existing landscape views of it would be restricted to a localised area. However, the development would be prominently seen from closer range views (LVIA Viewpoints/Photographs 1, 3, 4 and 5). In relation to viewpoints/photographs 1 and 4 the rural landscape is the predominant feature with existing built development having limited impact on the views. The proposal would introduce an urban form of development that would cause a very noticeable change in these views. I acknowledge that motorists, who would experience these views fleetingly, would have a low sensitivity to the change but the A4110 is a busy main road and as such a large number of motorists would be affected.
13. In relation to viewpoint/photograph 3 I consider that the magnitude of change for the occupiers of Shirl Heath Cottage would be high as the development would cause a significant change to the existing view. The dwellings would be clearly visible above the boundary hedge. Consequently, there would be a moderate to substantial adverse effect to views experienced by the occupiers of Shirl Heath Cottage. The proposed tree and hedge planting to the A4110 boundary would eventually have a modest softening effect but the houses would still be clearly visible above the hedge.
14. The proposal would significantly alter the view from viewpoint/photograph 5 with the introduction of built form with the attendant urbanising elements such as roads, driveways and gardens which would be visually jarring and would significantly change the experience of those using the footpath. The new 5 metre wide belt of woodland planting would eventually help to screen the development. However, there is no indication in the information before me as to the time that would lapse before it would effectively screen the development.
15. Moreover, the proposed additional tree planting within the existing hedge on the A4110 frontage and that in place of the estate railings would appear to be within the gardens of the dwellings. Consequently, the long term retention of those trees cannot be guaranteed and I have no detailed evidence before me in relation to the long term management arrangements for any of the boundary landscaping. As a result, I consider that the weight to be given to the mitigation proposed is limited. Notwithstanding my concerns about the proposed landscaping I acknowledge it could eventually help to provide additional screening to the industrial units.
16. I note that the materials and the architectural styling of the proposed dwellings would appear to be sympathetic the vernacular of the surrounding area. However, the lack of harm in this respect is a neutral consideration.
17. Taking into account all of the above I conclude that the development would have a moderately adverse effect on local landscape character and result in a moderate to substantial adverse visual impact on the users of the footpath to the north of the site and the occupiers of Shirl Heath Cottage. On this basis I consider that the proposal would result in significant harm to the character and appearance of the area. It follows that the proposal would conflict with Policies LD1, SD1 and SS6 of the Herefordshire Local Plan Core Strategy (CS) which, in combination, seek to ensure that development respects local distinctiveness and conserve environmental assets including the landscape.
18. Based on my reading of these policies they would not directly influence the supply of housing by restricting the locations where new houses may be

developed. As such, I consider that they are not relevant policies for the supply of housing and should be considered up-to-date by reference to paragraph 49 of the Framework. Furthermore, I consider that CS Policies LD1, SD1 and SS6 are consistent with the Framework. Consequently, I afford them substantial weight in relation to paragraph 215 of the Framework.

#### *Suitable location*

19. CS Policies RA1 and RA2 relate to rural housing distribution and housing in settlements outside Hereford and the market towns. CS Policy RA1 states that a minimum of 5,300 new dwellings will be provided with the plan period and that local evidence and environmental factors will determine the appropriate scale of development. Shirlheath is a settlement where sustainable housing growth will be supported in or adjacent to by CS Policy RA2. The Inspector in the previous appeal found that *"Given its neighbouring position to other development in Shirlheath, it has the characteristics of being on the edge of the settlement and it therefore meets the requirements of CS Policy RA2"*. I find this persuasive in this case.
20. However, as CS Policies RA1 and RA2 are relevant policies for the supply of housing they are considered to not be up-to-date with regard to paragraph 49 of the Framework. Nevertheless, the extent of the shortfall is not significant, the CS has recently been adopted and I have no evidence before me to indicate that the housing strategy is flawed. As a result I consider that considerable weight can be attributed to these policies.
21. The site is not within the proposed settlement boundary for Shirlheath under Policy KNDP 15 of the Kingsland Neighbourhood Development Plan – Resubmission Draft July 2016 (KNDP). The KNDP has been submitted for examination under regulation 17 and is therefore at an advanced stage of preparation. However, I am aware that there are unresolved objections to the settlement boundary and Policy KNDP15. The appellant has also drawn my attention to questions raised by the Examiner of the KNDP in relation to the settlement boundaries and housing policies that are within the KNDP. Consequently, and having regard to paragraph 216 of the Framework I consider that moderate weight can be given to this policy.
22. Whilst, the appeal site is not within the settlement boundary for Shirlheath defined by Policy KNDP 15 this policy conflict has reduced weight for the reasons outlined above. Furthermore, the appeal site would meet the requirements of CS Policy RA2. I note that the Council have referred to CS Policy SS7 which relates to addressing climate change in the first reason for refusal. However, as Shirlheath is determined to be suitable for housing by CS Policy RA2 it is to be considered as a relatively accessible location and the proposal would comply with CS Policy SS7.
23. Taking into account all of the above, I conclude that the appeal site is a suitable location for houses with regard to the housing strategy of the development plan.

#### **Other Matters**

24. The proposal would make a limited contribution to the local economy including the provision of construction jobs, some additional local spend and New Homes Bonus and Council Tax receipts. Six dwellings would be provided in an area where there is an acknowledged shortfall. Consequently, the proposal would

make a contribution to the economic and social aspects of sustainability as outlined in the Framework but the benefits would only be modest.

25. The proposal would enhance the biodiversity of the site and screening to the existing industrial units but this has to be weighed against its urbanising effect and the significant harm that I have found in relation to the character and appearance of the area. As such, the development would not accord with the environmental aspect of sustainability.

### **Conclusion**

26. As such, taking all the above factors into account, I consider that the significant harm to the character and appearance of the area would significantly and demonstrably outweigh the modest benefits when assessed against the policies of the Framework taken as a whole. Overall, therefore, the proposal would not represent sustainable development.
27. The harm that would be caused to the character and appearance of the area also leads me to conclude that the proposal would conflict with the development plan and this outweighs my finding in relation to the housing strategy. In accordance with S38(6) of the Planning and Compensation Act 2004, and as set out in paragraph 12 of the Framework, development which conflicts with the development plan should be refused unless other material considerations indicate otherwise. In this case there are no material considerations which indicate that the proposal should be determined other than in accordance with the development plan.
28. For these reasons, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

*D. Boffin*

INSPECTOR