
Appeal Decision

Site visit made on 22 August 2017

by David Richards BSocSci DipTP MRTPI

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

Decision date: 06 September 2017

Appeal Ref: APP/H1840/W/17/3173804

Greenacres, Brook Lane, Cropthorne, Worcestershire, WR10 3JX

- 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 Heritage House Developments Ltd against the decision of Wychavon District Council.
 - The application Ref. W/16/02510/PN, dated 20 October 2016, was refused by notice dated 16 January 2017.
 - The development proposed is residential development of four 4 bedroom dwellings with detached garages.
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Decision

1. The appeal is allowed and planning permission is granted for residential development of four 4 bedroom dwellings with detached garages at Greenacres, Brook Lane, Cropthorne, Worcestershire, WR10 3JX in accordance with the terms of the application, Ref W/16/02510/PN, dated 20 October 2016, subject to conditions set out in the attached schedule.

Main Issues

2. The main issues in this appeal are: whether the proposed density is appropriate for the site, having regard to the existing outline permission for 5 dwellings; the effect on heritage assets; and the effect on the provision of green infrastructure.

Reasons

3. Outline planning permission for 5 dwellings (including one affordable dwelling) was granted on appeal in 2015¹. The principle of development is not in dispute. The current appeal is concerned with a fresh application for four dwellings. An amended plan PL-116 P1 was submitted with the appeal. This moves Plot 3 two metres to the west, and Plot 4 five metres to the west. The Council does not object to the appeal being dealt with on this basis, but considers that it does not overcome their objections.
4. The development plan for the area is the South Worcestershire Development Plan, adopted in February 2016 (LP). Policy SWDP 5 requires developments to provide an appropriate proportion of green infrastructure, and enhance connectivity. Policy SWDP6 states that development proposals should conserve and enhance heritage assets, including archaeological assets. Policy SWDP13

¹ Ref: APP/H1840/A/14/2228591

encourages efficient use of land, and proposes densities of 30 dwellings per hectare in rural areas. Policy SWDP 21 requires a high design quality in all developments which should integrate effectively with their surroundings and conserve, and where appropriate, enhance them. Policy SWDP 24 provides that development proposals which affect heritage assets will be considered in accordance with the Framework, legislation and relevant guidance.

5. Cropthorne is an attractive rural village whose historic core along main street and Brook Lane is included within a conservation area (CA) that also includes undeveloped land extending down to the River Avon.
6. The site, extending to some 1.1 hectares, is a large well-landscaped garden of an existing bungalow, Greenacres, which is set back from and several metres above Brook Lane. The western and northern elevated parts of the site are relatively flat and include areas of lawn with numerous trees and shrubs. An established badger sett is located within the site close to the northern boundary which is defined by a ditch and a row of mainly deciduous trees, beyond which runs a footpath along the edge of the field and orchard. Beyond the mixed hedgerow on the site's western boundary is open countryside.
7. To the south is a row of detached dwellings set back from the road above Brook Lane, and on the other side of the road there is an undeveloped area of rough grass, hedgerows and trees. To the north of the site's frontage, and to the east and below the northern part of the site, Patty's Farm House, a grade II listed building dating back to the 17th century, and its landscaped garden. Beyond this are Brook Farm House and Brook Farm Cottage, also listed, and then the main part of the historic village.

Density

8. The approved outline scheme was for five dwellings. The Inspector who determined the appeal proceeded on the basis that one of the dwellings would be located on the site frontage, having regard to an existing planning permission. The remaining four would be on the elevated western and northern parts of the site.
9. The Council consider that the proposed density is very low (less than 5 dwellings per hectare) and well below the indicative average density set out in Policy SWDP13 for village locations of about 30 dwellings per hectare. It is considered that a scheme of 5 dwellings could be accommodated in accordance with the approved outline permission without harm to the character and appearance of the CA or the setting of listed buildings. Instead, the Appellant has chosen to submit a scheme for 4 large dwellings and avoid the requirement of Policy SWDP14 to provide an appropriate mix of dwellings on the site.
10. It is the case that the approved scheme was already low density, reflecting the sensitive nature of the site and potential impacts on trees, ecology and the setting of heritage assets. I accept that the current scheme for four large houses would not deliver a mix of dwelling types, but I have to consider the current proposal on its merits. To my mind the proposed reduction in density (amounting to one dwelling) is unlikely to have any significant impact on the achievement of the Council's housing need targets, including the provision of affordable housing. LP Policy SWDP14 does not require a mix of housing for schemes of less than 5 dwellings, so the current proposal would not conflict with it. The Council acknowledges that under the revised approach to

affordable housing contributions as set out in the Ministerial Statement, an affordable housing contribution would no longer be required in any event.

11. While I accept that a scheme for four dwellings would not comply with LP Policy SWDP 13, the density guidance is indicative and there are material considerations stemming from the nature of the site, including a requirement for a substantial element of green infrastructure, and the planning history which indicate that a lower density of development is acceptable in this instance.

Effect on heritage assets

12. Other than the area fronting Brook Lane, the site is outside the CA. The elevated position and heavily landscaped nature of the western and northern parts of the site means that they currently make a positive contribution to this part of the CA and the nearby listed buildings, as they form part of a soft, green boundary on the rural edge of the village.
13. The previous Inspector recognised that the location and scale of development on the western and northern parts of the site would be constrained by the need to retain adequate intervening distances from the existing bungalow, badger sett and existing trees and hedgerows around and close to the boundaries.
14. The Council is concerned that the position of Plot 4 close to existing trees on the eastern edge of the site could result in pressure to prune or fell them and expose more of the new house in views from Brook Lane, adversely affecting the setting of the CA and listed buildings. The resulting level of harm to the designated heritage assets is considered to be 'less than substantial', as referred to in section 12 of the Framework. The amendments made to plots 3 and 4, which have the effect of moving the dwellings outside the root protection areas of trees on the eastern edge of the site, are acknowledged, but this does not overcome the Council's concern.
15. The appellant marked out the position of plot 4 on the site. The trees that would be most affected appeared to me to be a belt of conifers of relatively little amenity, approximately in the position where the dwelling on Plot 4 would be sited, and to the south, between the proposed dwelling and the existing bungalow. To my mind, there would be sufficient separation between the dwelling on Plot 4 and the substantial belt of planting on the eastern boundary to ensure that it would continue to screen the development, and that the settings of the conservation area and the listed buildings would remain unaffected. The dwelling would have reasonably open aspects on three sides, and I consider that conditions requiring the submission of landscape and tree protection details would be sufficient to ensure that the boundary planting would be retained in a manner to ensure the effectiveness of the screening is retained.
16. With regard to the proposed new access arrangement from Brook Lane, I acknowledge that the previous Inspector concluded that an appropriately designed dwelling on the frontage would preserve the character and appearance of this part of the village. While I do not dispute that, I consider that a well-designed and landscaped new access would similarly preserve the character and appearance of the CA and settings of the listed buildings, and could be secured by the attachment of an appropriate condition.

17. Accordingly I find there would be no material harm to heritage assets, or conflict with the relevant policies of the LP.

Green Infrastructure

18. The Council suggests that a more coherent green infrastructure provision, as well as the retention of more of the existing vegetation, could be achieved if the buildings were reduced in size and designed so as to fit in with existing tree cover. For the reasons given above, I do not consider that the Council's fears with regard to pressure on the eastern tree line would be realised. The dwellings would be set well away from the ecological protection area along the northern boundary of the site, and retain a satisfactory separation distance along the eastern boundary. To my mind, the proposed layout, which includes substantial open areas and potential connections makes acceptable provision for green infrastructure. A condition requiring a detailed scheme of ecological mitigation will ensure that the interests of wildlife using the site are properly taken into consideration. I conclude that the scheme satisfies the requirement of LP Policy SWDP5.

Other matters

19. Local residents and the Parish Council took issue with the principle of development in this location. It is important to recognise that the site has outline planning permission for 5 dwellings which is capable of being implemented, subject to the approval of details, and that the principle of development on the site is established.
20. The neighbour at Patty's Farm was concerned that the dwelling on Plot 4 would be set at the roof level of the two listed buildings, and would have a serious detrimental effect on the heritage assets. Concern was also expressed that there would be a harmful effect on privacy. I have considered heritage impacts above, and I believe that the established planting would provide effective screening to ensure that the dwellings on the site would not be harmful to the setting of the listed buildings. With regard to privacy, there would only be small secondary windows in the gable end of Plot 4 facing the rear of Patty's Farm. In any event, the established planting and separation distance would ensure that there would be no harm to the privacy of neighbours. This did not form part of the Council's refusal reasons.
21. I appreciate that the established planting causes some overshadowing of neighbours' rear gardens, and residents are also concerned about the stability of the trees. However these trees are an existing feature of the site. The amended siting would place the dwellings outside the root protection zone of the trees on the eastern boundary of the site, and there is no reason why their stability should be affected.
22. With regard to the suggestion that blue clay is present on the site, it would be a matter for the developer to ensure that proper foundations were constructed, in accordance with the building regulations.

Conditions

23. I have considered the suggested conditions in the light of national guidance. Where necessary I have made minor amendments in the interests of precision and clarity.

24. In addition to the time limit, a condition specifying the approved plans is necessary to define the permission and in the interests of proper planning. Conditions addressing materials and landscaping are necessary to ensure a satisfactory appearance to the development. A condition is needed to ensure that important trees are protected during construction works. A condition relating to the design and construction of the proposed access is needed to ensure that this work is completed to an appropriate standard before occupation, in the interest of the character and appearance of the area and highway safety. Further details of design and construction of the access are needed to ensure the access preserves the conservation area. A condition addressing the provision and maintenance of visibility splays is needed in the interests of highway safety. Conditions relating to water management and site drainage are necessary to avoid the risk of flooding within the site and offsite, and to avoid the transfer of water and loose material onto the highway. A condition regarding energy generation is necessary to mitigate climate change.
25. A condition relating to archaeology is required to ensure that any archaeological interest is properly evaluated and recorded. A detailed ecological mitigation scheme is needed to protect ecology and protected species. A condition requiring the provision of facilities for handling refuse is necessary to ensure proper provision of these important elements. A limit on hours of construction etc. is necessary to protect the amenity of local residents. Details of floor slab levels are essential having regard to the sensitive nature of the site and the need to avoid adverse impact on heritage assets.

Conclusion

26. For the reasons given above I conclude that the scheme would be acceptable and would not result in material conflict with the development plan considered as a whole, or with the policies set out in the Framework. I have taken all matters raised by third parties into account, but none affect my overall conclusion that the appeal should be allowed.

David Richards

INSPECTOR

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Schedule of conditions:

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) Unless required by any other condition attached to this permission the development hereby permitted shall be carried out in accordance with the following approved plans:

1:1250 scale Location Plan; 01/100; 02/100; 03/100; 04/100 Rev P2; 06/100; PL-116 P1 (which replaces the original plan PL-101 P5).
- 3) No building operations hereby permitted shall commence until details of the materials to be used in the construction of the external surfaces of the dwellings hereby permitted have been submitted to and approved in writing by the local planning authority. The details to be submitted shall include:-
 - type, colour, texture, size, coursing, finish, jointing and pointing of brickwork/stonework;
 - type, colour, texture, size and design of roofing materials;
 - and details of external doors including information on finish.

The development shall be carried out using the materials as approved and retained in that form thereafter.
- 4) Before the commencement of construction works on the development hereby permitted, a scheme of landscaping shall be submitted to and approved in writing by the Local Planning Authority. The landscaping scheme shall include:-
 - a) a plan(s) showing details of all existing trees and hedges on the application site. The plan should include, for each tree/hedge, the accurate position, canopy spread and species, together with an indication of any proposals for felling/pruning and any proposed changes in ground level, or other works to be carried out, within the canopy spread.
 - b) a plan(s) showing the layout of proposed tree, hedge and shrub planting and grass areas.
 - c) a schedule of proposed planting - indicating species, sizes at time of planting and numbers/densities of plants.
 - d) a written specification outlining cultivation and other operations associated with plant and grass establishment.
 - e) a schedule of maintenance, including watering and the control of competitive weed growth, for a minimum period of five years from first planting.
- 5) All planting and seeding/turfing shall be carried out in accordance with the approved details in the first planting and seeding/turfing seasons following the completion or first occupation of the development, whichever is the sooner.

The planting shall be maintained in accordance with the approved schedule of maintenance. Any trees or plants which, within a period of five years from the completion of the planting, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Temporary fencing for the protection of all retained trees/hedges on site and trees outside the site whose Root Protection Areas fall within the site shall be erected in accordance with BS 5837:2012 (Trees in Relation to Design, Demolition and Construction) before development of any type commences, including site clearance, demolition, materials delivery, vehicular movement and erection of site huts.

Any alternative fencing type or position not strictly in accordance with BS 5837 (2012) must be agreed in writing by the local planning authority prior to the commencement of development.

This protective fencing shall remain in place until the completion of development or unless otherwise agreed in writing with the local planning authority. Nothing should be stored or placed (including soil), nor shall any ground levels altered, within the fenced area without the previous written consent of the local planning authority. There shall be no burning of any material within 10 metres of the extent of the canopy of any retained tree/hedge.

- 6) Notwithstanding the details shown of the approved plans, details of the design and construction of the proposed new access shall be submitted to the local planning authority for approval in writing before the commencement of development. The dwellings hereby permitted shall not be occupied until the private driveway, individual vehicular accesses together with the parking areas shown on the approved plan have been properly consolidated, surfaced, drained and otherwise constructed in accordance with approved details, and these elements of the development shall thereafter be retained and kept available for those uses at all times.
- 7) Before any other works hereby approved are commenced, the private access into the application site shall be so constructed that there is clear visibility from a point 0.6m above the level of the adjoining carriageway at the centre of the access 2.4 metres from and parallel to the entire length of the site frontage. Nothing shall be planted, erected and or allowed to grow on the area of land so formed which would obstruct the visibility described above and these areas shall thereafter be retained and kept available for visibility purposes at all times.
- 8) Prior to the first occupation of the development hereby permitted, the details set out in the submitted Water Management Statement shall be fully implemented and retained thereafter.
- 9) Drainage arrangements shall be provided to ensure that surface water from the shared private driveway does not discharge onto the public highway, Brook Lane. No drainage or effluent from the proposed development shall be allowed to discharge into any highway drain or over any part of the public highway.
- 10) Prior to the occupation of any part of the development hereby permitted details of renewable or low carbon energy generating facilities to be incorporated as part of the development shall be submitted to and

approved in writing by the local planning authority. The details shall demonstrate that at least 10% of the predicted energy requirements of the development will be met through the use of renewable/low carbon energy generating facilities. The approved facilities shall be provided prior to any part of the development hereby permitted being first occupied, or in accordance with a timetable submitted to and approved by the local planning authority as part of the details required by this condition.

- 11) A. No development shall take place until a programme of archaeological work, including a Written Scheme of Investigation, has been submitted to and approved by the Local Planning Authority in writing. The scheme shall include an assessment of significance and research questions; and:
- The programme and methodology of site investigation and recording.
 - The programme for post-investigation assessment.
 - Provision to be made for analysis of the site investigation and recording.
 - Provision to be made for publication and dissemination of the analysis and records of the site investigation.
 - Provision to be made for archive deposition of the analysis and records of the site investigation.
 - Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.
- B. No demolition/development shall take place other than in accordance with the Written Scheme of Investigation approved under part (A) of this condition.
- C. The development shall not be occupied until the site investigation and post-investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under part (A) of this condition and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.
- 12) No development shall take place until a detailed ecological mitigation and enhancement scheme, which shall be based on the conclusions and recommendations set out in section 4 of the Preliminary Ecological Appraisal by Worcestershire Wildlife Consultancy dated 7 November, 2016, has been submitted to and approved in writing by the Local Planning Authority. The measures so approved shall be carried out thereafter and retained on site.
- 13) No individual dwelling shall be occupied until details of the facilities for the storage of refuse for it has been submitted to and approved in writing by the Local Planning Authority. The storage facilities so approved shall be retained thereafter.
- 14) Demolition, clearance or construction work and deliveries to and from the site in connection with the development hereby approved shall only take place between the hours of 08.00 and 18.00 Monday to Friday and 08.00 and 13.00 on a Saturday. There shall be no demolition, clearance or construction work or deliveries to and from the site on Sundays or Bank Holidays.

- 15) The construction work on the buildings hereby approved shall not be commenced until the precise floor slab levels of each new building, relative to the existing development on the boundary of the application site have been submitted to and approved in writing by the local planning authority. Thereafter the new buildings shall be constructed at the approved floor slab levels.