
Appeal Decision

Site visit made on 28 May 2019

by S. Rennie BSc (Hons), BA (Hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 August 2019

Appeal Ref: APP/W1850/W/19/3221618

Land at Lovers Walk, Gorsley, Herefordshire (Grid Ref:367874:226026)

- 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 Hickton (North Oak Homes) against the decision of Herefordshire Council.
 - The application Ref 181908, dated 22 May 2018, was refused by notice dated 31 January 2019.
 - The development proposed is described as an "outline planning application for 9 dwellings with all matters reserved except access and layout."
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Decision

1. The appeal is allowed, and outline planning permission is granted for the erection of 9 dwellings to Land at Lovers Walk, Gorsley, Herefordshire (Grid Ref:367875:226026), in accordance with the terms of the application, Ref 181908, dated 22 May 2018, subject to the conditions set out in the attached Schedule 1.

Application for costs

2. An application for costs was made by North Oak Homes Ltd against Herefordshire Council. This application is the subject of a separate Decision.

Procedural Matters

3. The appeal seeks outline permission with all matters reserved except for access and layout. In so far as the submitted plans and drawings show details of matters other than the access and layout, I have treated those as being purely illustrative.
4. In my decision I have described the development as 'erection of 9 dwellings' as it is not necessary to state that it is an outline application or which matters are reserved in this description.
5. Amended layout 17-043-02 Rev A Planning Layout has been submitted with the appeal. The Council has agreed to this submission being accepted. It is consistent with the other plans submitted as part of the planning application. Therefore, no interested party would be materially prejudiced by this plan being accepted with this appeal.

Main Issue

6. The main issue is the effect of the development on highway (including pedestrian) safety and the accessibility of the site.

Reasons

7. The proposal with this appeal follows a dismissed appeal (Ref: APP/1850/W/16/3149481) in 2016. The previous proposal was for 26 dwellings, whereas this amended proposal has been reduced to 9 dwellings.
8. The amended proposal was refused on highway grounds. The first issue of which is the narrow existing footways that lead to the site frontage and its proposed access along the busy B4221. This is also a road which is relatively straight with high vehicle speeds being recorded in the area of the site.
9. This was an issue which the previous Inspector found harm which contributed to the dismissal of that appeal. The Inspector regarded the narrow footpaths that lead to existing bus stops were too narrow to be considered a safe route for pedestrians. These footpaths are approximately 1.1 - 1.4m wide, rather than the 2m suggested in Manual for Streets as generally appropriate.
10. The Inspector, on this issue, stated that – *"Had the proposed westerly footway been acceptable, I would have found that the failure to provide a suitable footway to the easterly bus stop would result only in modest harm, but as it is, the failure to provide suitable access to either bus-stop causes significant harm to highway safety"*.
11. Amendments have been included with this subsequent proposal, which includes a 2m footpath across much of the site frontage, together with a new bus stop on either side of this road, near the proposed access. Also proposed is a controlled crossing (a puffin crossing) across the B4421, which is also near the proposed access into the development. There is no substantive evidence that such a crossing would be a potential hazard on this road considering the speed of traffic.
12. These proposed additions would mean that occupiers of the development would have a safe walk from the site to either bus stop, whichever direction they were travelling, with a controlled crossing and approximately 2m wide footpaths.
13. I regard this as addressing the highway/pedestrian safety harm identified in the previous appeal and I am also aware that this was negotiated with the Highways Authority that have no objection to the scheme.
14. If any future occupier of the development wanted to walk into the centre of Gorsley along the B4221, I recognise that they may still need to travel across a narrow section of footpath to the west of the site frontage. However, the proposal includes a footpath link to Lovers Walk, near the Village Hall, which connects on through relatively quiet residential streets to the other facilities the village has to offer. As such, I do not regard the site to be poorly linked to facilities that would mean an over-reliance on private vehicles.
15. I am aware that there has been a fatal accident near the site along the B4221 in December 2018, together with records of other accidents in this area. However, there is no substantive evidence before me that this incident

indicates that the development would result in substandard safety levels for occupants of the proposed dwellings.

16. There would be some additional traffic with the nine houses proposed, but there is no detailed evidence to suggest that this would be at a level that would result in adverse effects to the existing highway network.
17. Overall, the proposed development would not result in harmful highway issues or result in unsafe routes for pedestrians to either the village of Gorsley or bus stops which link with larger nearby settlements. The proposal would not result in a significant increase in traffic levels. The proposal is in accordance with Herefordshire Core Strategy policies MT1 and SS4, which seek to, amongst other things, promote integrated transport connections and ensure the safe operation of the transport network. The proposal is also in accordance with the National Planning Policy Framework (the Framework) in this regard.

Other Matters

18. The proposed development is within what is currently a field. The proposed nine dwellings would clearly alter the character and use of the site. However, the low density of the development is such that it would not result in harm to the wider rural character of the area. The development layout also allows for significant levels of landscaping potential to reduce the visual impact of the new houses. The development would visually relate well to the existing village.
19. Whilst an additional 9 dwellings would add to the local population, but not to a degree where there is clear evidence that the local services and facilities would not have sufficient capacity over time. There has been no objection from the Council in this regard.
20. I am aware of the public right of way (Linton 18 (LTR18)) which runs through the site and I have considered the Council's comments on this matter and other representations, such as those from the Ramblers Society. From the information before me a route can be provided through the site to Lovers Walk and so this would maintain the permeability through the site.
21. Core Strategy Policy SS2 concerns the delivering of new homes in Herefordshire, with a target to deliver a minimum 16,500 dwellings during the plan period and that designated rural settlements play a key role in that delivery. The nine houses proposed would contribute towards the housing supply not just for Gorsley but for the County as a whole. I have no substantive evidence before me that other developments have resulted in there being no need for the proposed houses or that it would result in a disproportionate increase in the village. A condition can also be attached to ensure a suitable mix of dwelling types are provided.
22. The proposed indicative plan shows detached houses in spacious plots, but the design and scale of the proposed houses is a reserved matter. There may be more of a need for 1 and 2 bed dwellings needed in this area, but at this outline stage there is no firm detail on the scale of dwellings that are proposed.
23. The proposal is in outline form but does include some detail with regards proposals for foul and surface water drainage. I recognise that this was not an issue that the Council fully resolved with the appellant at the planning application stage, but I also note that the previous Inspector found that "in the light of the evidence I am satisfied that there is adequate potential within the

site to ensure that both surface and foul drainage can be adequately addressed". I would agree with this finding on the matter of drainage and this is not a reason to withhold permission for the development proposed.

24. The proposal would include some loss of hedgerow, although some would be translocated or re-planted. I note that this has been considered by the Council's Ecologist and there has been a response from Natural England, with no objections to the proposal, subject to conditions which the Council has recommended be attached if the appeal is allowed. From this information, the proposed development would not result in harm to ecology at the site or the wider area.
25. The proposed development would alter the outlook from some nearby neighbouring properties, but if the development was appropriately landscaped and designed then there is no reason at this stage to regard the proposal would result in significant harm to neighbouring occupiers on this basis.
26. There would be some noise from the construction phase, but this would over a relatively short period of time. Furthermore, there is no substantive evidence to suggest that the noise would be to a level that it would result in significant disturbance to existing neighbours.
27. I understand that there have been applications refused in the area of the site for various reasons. However, I do not have full details of these cases and also I have assessed this proposal on its own merits.

Conditions

28. I have considered the conditions put forward by the Council against the requirements of the Planning Practice Guidance (PPG) and the Framework. The conditions I have included from the recommended list have been subject to some alterations to improve clarity and ensure consistency with the Framework and PPG.
29. I have attached the standard reserved matters condition and time limit conditions, and a plans condition as this provides certainty.
30. Relating to highways matters, I have attached conditions requiring vision splays, access formation and gradient, parking provision and driveways. I have also attached a condition that requires a wheel washing scheme and construction traffic parking. There is also a condition to require the off-site highway works, as these are important elements of the proposal. These are all in the general interest of highway safety and providing suitable access and parking provision. Furthermore, I have included a cycle parking condition requiring details of cycle storage with the proposed houses. This would enable and promote sustainable forms of travel in the area.
31. There is a condition requiring details of bin storage. I have not included the detailed requirement to do with distance of plots from where refuse vehicles can reach, although this could be considered as part of the details required by this condition.
32. There is a condition requiring details of a drainage strategy, which is in the interest of avoiding flooding issues and provision of suitable drainage for this residential development.

33. In the interests of ecology, I have attached a condition requiring an Ecological Mitigation and Enhancement Strategy which should have particular regard to hedgerow works and how this could affect local ecology.
34. A condition requiring the houses to be of a size and type to generally accord with the Council's housing need, as is set out in the Local Housing Needs Assessment is also included. This policy reflects the housing policy in the Local Plan.
35. I have not included condition 4 of the Council's recommended list as it appears repetitious of other conditions relating to the requirement for reserved matters. I have also not included condition 10 of the Council's list as this is similar to the requirements of other highways based conditions. Recommended condition 12 has not been included as there is insufficient evidence that such a requirement for the completion of highway works is necessary for the development to be acceptable. Furthermore, I have not included the condition No 17 related to a 'Green Infrastructure Scheme' as landscaping is a reserved matter.

Conclusion

36. For the reasons given above, the appeal should be allowed, subject to the conditions set out in Schedule 1 below.

S. Rennie

INSPECTOR

Schedule 1: CONDITIONS

1. Details of the appearance, landscaping and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any development takes place 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 3 years from the date of this permission.
3. The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
4. The development hereby permitted shall be carried out in accordance with the following approved plans, except in respect of any details related to the reserved matters:
 - *17-043-01 Location Plan*
 - *17-043-02 Rev A Planning Layout*
 - *16251-11D Site Access Drawing*

5. The access hereby approved shall not be brought into use until visibility splays, that measure from a point 0.6 metres above ground level at the centre of the access to the application site and 2.4 metres back from the nearside edge of the adjoining carriageway (measured perpendicularly) for a distance of 143 metres to the west and 126 metres to the East along the nearside edge of the adjoining carriageway, have been provided. Thereafter, nothing shall be planted, erected and/or allowed to grow on the triangular area of land so formed which would obstruct the visibility described above.
6. Notwithstanding the submitted details and prior to any other works hereby approved are commenced, the construction of the vehicular access into the site shall be carried out in accordance with a specification to be submitted to and approved in writing by the Local Planning Authority, at a gradient not steeper than 1 in 12.
7. Details of driveways and vehicular turning areas, together with drainage arrangements within these areas, shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of development. The driveway and/or vehicular turning areas for each dwelling shall be consolidated and surfaced at a gradient not steeper than 1 in 8 prior to the occupation of the dwelling served by this driveway and turning area.
8. Prior to the first occupation of any dwelling to which this permission relates an area for car parking shall be laid out within the curtilage of that property, which shall be properly consolidated, surfaced and drained, in accordance with details to be submitted to and approved in writing by the Local Planning Authority and those areas shall not thereafter be used for any other purpose than the parking of vehicles.
9. No development shall commence until full details and specification of all of the highway improvements as shown on the submitted plans (including the controlled pedestrian crossing, closure and removal of the existing parking bay, and the works relating to the existing and proposed bus stops) have been submitted to and approved in writing by the Local Planning Authority, and the development shall not be occupied until the scheme has been constructed in accordance with the approved details.
10. There shall not be any development within the site until wheel cleaning apparatus has been provided in accordance with details to be submitted to and approved in writing by the Local Planning Authority, and which shall be operated and maintained during construction of the development hereby approved.
11. Development shall not begin until parking for site construction operatives and site visitors has been provided within the application site in accordance with details to be submitted to and approved by the Local Planning Authority and such provision shall be retained and kept available during construction of the development.
12. No development shall take place until details of the standards to which the internal roads serving the development are to be constructed shall have been submitted to and approved in writing by the Local Planning Authority. No house shall be occupied until the roads have been constructed in accordance with the approved details.

13. Full details of a scheme for the provision of covered and secure cycle parking facilities within the curtilage of each dwelling shall be submitted to the Local Planning Authority for their written approval. The covered and secure cycle parking facilities shall be carried out in strict accordance with the approved scheme details and available for use prior to the occupation of any of the dwellings hereby permitted. Thereafter these facilities shall be maintained in perpetuity.
14. The reserved matters application submitted pursuant to Condition 1 shall be accompanied by details of a scheme for the delivery of the open market housing. This scheme shall comprise a schedule outlining the number of 2, 3 and 4 (+) bed dwellings; the overall mix being in general accordance with the Council's Local Housing Market Assessment (or any successor document, adopted for these purposes by the Local Planning Authority).
15. Prior to commencement of the development, an Ecological Mitigation and Enhancement Strategy including ecological working methods, in particular in relation to any hedgerow removal; together with detailed biodiversity enhancements for bats, birds, invertebrates and hedgehogs should be submitted to and be approved in writing by the Local Planning Authority, and the scheme shall be implemented as approved. The scheme as approved shall be maintained thereafter.
16. Prior to the first occupation of the dwellings hereby permitted, full written details and plans for refuse storage and waste collection points shall be submitted to the Local Planning Authority. The refuse storage and collection points as agreed shall be in place prior to the occupation of the dwellings and maintained as approved thereafter.
17. The development hereby permitted should not commence until drainage plans for the disposal of foul and surface water flows have been submitted to and approved by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use and thereafter be maintained as such.