



Appeal Decisions

Site visit made on 28 May 2019

by E Griffin LLB Hons

an Inspector appointed by the Secretary of State

Decision date: 11 September 2019

Appeal Ref: APP/P1805//W/19/3224255

Land to front of Yew Tree Farm, St Kenelms Road, Romsley B62 ONU

- 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 Kendrick Homes Limited against the decision of Bromsgrove District Council.
 - The application Ref 18/00282/FUL dated 1 March 2018 was refused by notice dated 18 December 2018.
 - The development proposed is residential development of 7 No. Dwellings and associated garaging.
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Decision

1. The appeal is allowed and planning permission is granted for residential development of 7 No. Dwellings and associated garaging at land to front of Yew Tree Farm, St Kenelms Road, Romsley B62 ONU in accordance with the terms of the application, Ref 18/00282/FUL dated 1 March 2018, subject to the following conditions set out in the attached schedule.

Application for costs

2. An application for costs was made by Kendrick Homes Limited against Bromsgrove District Council. This application is the subject of a separate Decision.

Procedural Matters

3. The appeal proposal was recommended for approval by the Council but that decision was not supported by Committee and a decision notice with two reasons for refusal was subsequently issued.
4. The revised National Planning Policy Framework (the Framework) was published in February 2019. I have had regard to the revised Framework where relevant.

Main Issues

5. The main issues are (i) the effect of the appeal proposal on highway safety and (ii) whether the appeal proposal makes the best use of land with particular regard to the housing mix and density.

Reasons

6. The existing dwellings along St Kenelms Road are a mix of designs and styles. However, the dwellings to the west of the appeal site on St Kenelms Road are largely set back from the road.
7. Across the road, there are retail units including a Co-op general store with an integrated post office with parking outside the units on the road. There are double yellow lines to the east of the parking area. There is a single yellow line on the appeal site side of the road restricting parking.

Highway Safety

8. The appeal site is a field which currently forms a gap along the north side of St Kenelms Road. There is an existing pattern of individual accesses to dwellings to the west of the appeal site across the pavement. The appeal proposal would largely continue that pattern by providing seven dwellings in a linear form towards the front of the appeal site with three individual accesses for the three detached dwellings and a shared access for the two pairs of semi-detached dwellings.
9. The presence of the shops and parking spaces to the other side of the road to the appeal site does mean that when cars or delivery vehicles are parked outside the shops or on restricted parking areas nearby, there is insufficient space for two way traffic as well. Rather than wait for cars to pass, it would appear that some drivers instead drive along the pavement.
10. The Council's concern is expressed to be that the creation of four new vehicular accesses would encourage drivers to mount the kerb at a greater speed resulting in an unsafe situation for pedestrians and future occupiers.
11. It seeks to rely upon Paragraphs 108 and 110 of the Framework in supporting its refusal on highway grounds. In support of this reason, the Council refers to visual observation of the Committee site visit, comments from local residents and the Parish Council weighed against the evidence provided by the Worcestershire County Council. However, Paragraph 109 of the Framework states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety or the residual impact on the road network would be severe.
12. The objections of local residents and the Parish Council include the width of the road, the close proximity of the shops and the road being a main artery in the village. The Parish Council has provided video evidence showing bad driver behaviour and considers that new dropped kerbs will make it easier to mount the pavement. However, the appellant considers that increased activity along the frontage may discourage illegal parking.
13. The appellant has provided some mitigation with the increase in the footpath width to a minimum of 2 metres and has allocated to the County Council 0.7 metres of verge beyond the widened footpath which would allow the highway to be widened should it be deemed necessary in the future. Sufficient space has been provided to allow for vehicles to exit and join the road in a forward gear. The existing front boundary hedge would be removed to accommodate vehicular access with footpath enhancements and a replacement front boundary hedgerow.

14. Although objectors have experienced issues of illegal parking, the Council's Committee report states that the existing situation will not be made worse as a result of the proposed development and existing issues do not make it reasonable to refuse planning permission on highway matters. Worcestershire County Council as the relevant highway authority do not object to the appeal proposal on highway grounds.
15. Due to the level of local objection to the appeal proposal, Worcestershire County Council undertook a review of accident data and a further review of that data was commissioned by the Council. The review of the data did not raise any concerns or demonstrate that the proposal would impact upon highway safety. The traffic flows along the road were found to be low and no accidents have been recorded near to the appeal site. It would therefore appear that road users are able to interact with each other.
16. There is limited information to indicate that the appeal proposal would have an unacceptable impact on highway safety as a result of the appeal proposal by mounting the kerbs at greater speed. It is likely that there are periods when the shops are busier and driver behaviour may not be acceptable but that in itself does not mean that the appeal proposal would lead to an unacceptable impact on highway safety.
17. Paragraph 109 of the Framework states that development should only be refused on highway grounds if there would be an unacceptable impact on highway safety. On the evidence before me, I do not find that to be the case here. The appeal proposal would not therefore conflict with Policy DBP16 of the Bromsgrove District Plan 2011-2030 Adopted January 2017 (the District Plan) which refers to sustainable transport and amongst other things provides that development should incorporate safe and convenient access. Policy BDP19 of the District Plan would appear to be of less relevance to highway matters as it refers to high quality design. Similarly, BDP1 of the District Plan refers to the principles of sustainable development.
18. The appeal proposal would not conflict with Paragraph 108 of the Framework which refers to ensuring safe and suitable access to the site by all users. Similarly, I find no conflict with Paragraph 110 of the Framework which refers to creating places that are safe, secure and minimise conflict between pedestrians, cyclists and vehicles.

Housing mix and density

19. The appeal proposal would provide a mix of three detached and four semi-detached dwellings. Policy BD7.1 of the District Plan states that to ensure mixed communities, development proposals need to focus on delivering 2 and 3 bedroom properties. As the appeal proposal would provide 5 out of 7 dwellings as 2 or 3 bedroom dwellings, I consider that the focus is met.
20. With regard to density, Policy BD7.2 of the District Plan refers to making the most efficient use of land whilst maintaining local character and distinctiveness and fully according with Policy BD19 High Quality Design.
21. The appellant states that the density of the appeal proposal equates to 21 dwellings per hectare which continues the pattern and layout of this north side of St Kenelms Road. Although the Council has referred to the lack of a 5 year housing supply requiring more housing that has to be weighed against

the appeal proposal providing 7 dwellings which in terms of character and appearance have been found to be in keeping with the surrounding development. Paragraph 122 of the Framework refers to planning decisions making efficient use of land taking into account factors including the desirability of maintaining an area's prevailing character and taking into account an identified need for different types of housing to appropriate density.

22. On the evidence before me, I therefore do find that the proposal does make the best use of land and does result in a good mix of housing. It would therefore not conflict with Policy BDP7 of the District Plan which, amongst other things, refers to ensuring development is focussed on delivering 2 and 3 bedroomed dwellings and density making the most efficient use of land whilst maintaining character. Although the Council has referred to Policy BDP19 of the District Plan in this reason for refusal there is no indication by the Council that the design and character of the appeal proposal is not acceptable.
23. Paragraph 123 of the Framework is relied upon by the Council. Paragraph 123 a) refers to plan making and b) refers to Councils setting minimum density standards which I have not been made aware of. Paragraph 123 c) refers does refer to refusing applications which fail to make efficient use of land but I have not found that to be the case here.

Other matters

24. The appeal site falls within land designated as Green Belt. The main parties agree that the appeal proposal would not be inappropriate development in the Green Belt with reference to Paragraph 146 of the Framework. The location of the appeal proposal is within a ribbon of development along both sides of the road. The parties consider that the appeal site is part of the village and would therefore fall within the exception of "limited infilling in the village" and would therefore not be inappropriate development in the Green Belt. I note that objectors refer to the land being outside the village envelope but the definition of village for Framework purposes is not the same. I agree with the main parties that the appeal proposal is within the physical confines of the village and falls within the exception of "limited infilling in the village".
25. Extending the width of the footpath would constitute engineering operations in the Green Belt. The Council however considers that within the context of the existing street scene there would be a minor increase in hardstanding and does not raise any objection in terms of harm to the Green Belt. I have no reason to disagree with the views of the parties with regard to the Green Belt issues.
26. A number of local objections have been received to the proposal. Objectors refer to a number of issues and I have taken those into account where they relate to material planning considerations. Issues such as ecology and the construction period can be adequately dealt with by conditions. The Council has not raised any issues with regard to overlooking or light pollution and I see no reason to disagree with that view. The number of dwellings falls below the threshold for affordable housing to be a requirement. Issues such as of poor driving and enforcement of parking restrictions fall outside the remit of this appeal. Bin storage on collection day would be no different than for other dwellings on St Kenelms Road. A grant of planning permission does not set a precedent as every application has to be assessed on its own merits.

27. The Council is unable to demonstrate a five year supply of housing. In the absence of a five year supply of housing, the appeal proposal would make a modest contribution towards housing numbers.
28. I have found that the appeal proposal does not have an unacceptable impact on highway safety and that the mix of dwellings proposed and the density would be acceptable. The appeal proposal is in a sustainable location in the village close to facilities. Paragraph 11 c) of the Framework refers to approving development proposals that accord with an up to date development plan without delay. Having considered the development plan, national policy and all relevant material considerations, I find that to be the case here.

Conditions

29. The conditions suggested by the Council have been considered in light of the advice contained within the Framework and the national Planning Practice Guidance. In addition to the standard implementation condition, it is necessary for the avoidance of doubt and in the interests of certainty to define the plans with which the scheme should accord. A condition to protect trees, and hedges prior to the commencement of works is needed as these form important features with regard to the amenity of the site and adjacent properties. The condition is required to be precommencement to ensure the protection of features through the construction period. It is necessary to have a water environment condition given the proximity of the site to a ditch to ensure that there is no flooding. The condition is required to be precommencement to reduce the risk of flooding before ground works take place.
30. The construction management plan condition is required to ensure safe operation of the site and is required precommencement as site operatives would be required to access the site from the start of any site clearance. A condition with regard to materials is required to ensure a satisfactory appearance and to safeguard the visual amenities of the area. A scheme of landscaping, planting and fencing is required as these features form an important part of the amenity of the site.
31. Moreover, conditions are necessary to secure and retain the turning area, access and car parking spaces, to ensure that the highway safety and living conditions are preserved for future occupiers. A condition requiring electrical charging points for vehicles would encourage sustainable travel and healthy communities. An ecology condition is required to ensure that the development results in a net gain of biodiversity. Car parking provision for each dwelling is specified to ensure that there is adequate on-site parking. A suitable drainage system is required to ensure that the site does not experience flooding issues.

Conclusion

32. Having regard to all the matters raised, I conclude that the appeal should be allowed and planning permission should be granted subject to conditions.

E Griffin

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 360-01-01 Rev B Planning Layout, Location Plan and Street Scene; 360-04-01 Plots 1 and 2 Floor Plans; 360-04-02 Plots 1 and 2 Elevations; 360-05-01 Plot 3 Floor Plans; 360-05-02 Plot 3 Elevations; 360-06-01 Plots 4 and 5 Floor Plans; 360-06-02 Plots 4 and 5 Elevations; 360-07-01 Plots 6 and 7 Floor Plans; 360-07-02 Plots 6 and 7 Elevations; 356-02 -702 P5 Highways Overlay.
- 3) Prior to the commencement of any works on site including any site clearance, demolition, excavations or import of machinery or materials, the trees or hedgerows which are shown as retained on the approved plans both on and adjacent to the development land shall be protected with fencing around their root protection areas. This fencing shall be constructed as detailed in Figure 2 and positioned in accordance with Section 4.6 of British Standard BS5837:2012 and shall be maintained as erected until all development has been completed.
- 4) Prior to the commencement of development, a method statement for the protection of the water environment from pollution during the course of construction has been submitted to and approved in writing by the local planning authority. The statement shall assess the risks from all pollution sources and pathways (including silt, cement and concrete, oils and chemicals, herbicides aggregates, contaminated land and waste materials) and provide details of mitigation measures proposed. Development shall be carried out in accordance with the approved details.
- 5) Prior to the commencement of development, to submit a Construction Management Plan to include details of
 - a. Parking for site operatives and visitors
 - b. Area for site operative facilities
 - c. Parking and turning for delivery vehicles
 - d. Areas for the storage of plant and materials
 - e. Wheel washing equipment
 - f. Boundary hoarding (set clear of any visibility splays)
 - g. Hours of operation for the construction phase of development

shall have been submitted to and approved in writing by the Local Planning Authority and the approved details shall be complied with throughout the construction period.
- 6) Prior to their first installation, details of the form, colour and finish of the materials to be used externally on the walls and roofs shall be submitted to and approved by the Local Planning Authority. The approved scheme shall be carried out in accordance with the approved details.

- 7) The development hereby approved shall not be occupied until an area has been laid within the curtilage of each dwelling for the following parking provision; 2 and 3 bed dwellings 2 car parking spaces per dwelling and 3 car parking spaces for 5 bed dwelling all at a gradient not exceeding 1 in 8. This area shall thereafter be retained for the purpose of parking a vehicle only.
- 8) The development shall not be occupied until the first 5 metres of the accesses into the development, measured from the edge of the carriageway have been surfaced in a bound material.
- 9) The development hereby approved shall not be occupied until the access, a turning area and parking facilities shown on plan reference 356-02-702 P5 have been provided. These areas shall thereafter be kept available at all times for their respective approved uses at all times.
- 10) Prior to the occupation of the development, one of the proposed car parking spaces at each dwelling shall be fitted with an electric vehicle charging point and thereafter the charging point shall be retained and kept available for the electric charging of vehicles.
- 11) Prior to the occupation of the development, a scheme of landscaping and planting shall be submitted to and approved by the local planning authority in writing. The scheme shall include the following; a) full details of all existing physical and landscape features on the site including the position, species and spread of all trees and major shrubs clearly distinguishing between the features to be retained and those to be removed b) full details of all proposed fencing, screen walls, hedges , floorscape, earth moulding, tree and shrub planting where appropriate. The approved scheme shall be implemented within 12 months from the date when any of the permitted dwellings are first occupied. Any trees/shrubs/hedges removed, dying, being severely damaged or becoming seriously damaged or seriously diseased within 5 years of the date of the original planting shall be replaced by plants of similar size and species to those originally planted.
- 12) All works proposed in the Preliminary Ecological Appraisal by Cotswold Wildlife Surveys dated November 2017 shall be carried out in accordance with the recommendations including timetables set out in the Appraisal.
- 13) No building operations shall take place until a scheme for surface water drainage for all impermeable areas has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include the results of an assessment of disposing of surface water by means of a sustainable drainage system. There shall be no increase in runoff from the site compared to the predevelopment situation up to the 1 in 100 year event plus an allowance for climate change. The approved details shall be implemented prior to the first use of the development hereby approved and shall be maintained for the life of the development.

End of Schedule