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## Appeal Decision

Site visit made on 7 October 2019

**by Martin Chandler BSc MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 25 October 2019**

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**Appeal Ref: APP/C3240/W/18/3211084**

**Greenfields (Willow View), Brockton, Newport, Telford, Shropshire  
TF10 9EP**

- 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 Mr Tim Warner against the decision of Telford and Wrekin Council.
  - The application Ref TWC/2017/0972, dated 1 September 2017, was refused by notice dated 6 July 2018.
  - The development proposed was originally described as: 'One open market and three rental eco houses, and double garage granny annexe'.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The address set out within the banner above has been taken from the appeal form rather than the planning application form. This is because it is a more precise address and in making this change, I am satisfied that the interests of the main parties have not been compromised.
3. However, the description of development set out above has been taken directly from the original planning application form. The description of development was changed by the Council upon registering the planning application. Evidence has been provided by the Council to suggest that the change was agreed by the applicant at the time, however, this seems somewhat ambiguous in its assertions. In addition, through this appeal, the appellant has since challenged the description of development as changed by the Council.
4. Based on the evidence before me, the key difference between the different descriptions relates to the nature and tenure of the proposed dwellings. Therefore, for the avoidance of doubt, I have assessed the appeal on the basis of the originally proposed description of development.

### Main Issues

5. The main issues are:
  - i) whether the appeal site is a suitable location for housing having regard to the requirements of the development plan;
  - ii) the effect of the proposal on flood risk; and

- iii) the effect of the proposal on protected trees.

## **Reasons**

### *Location*

6. Policy HO10 of the Telford and Wrekin Local Plan 2011 – 2031 (2018) (LP) seeks to control residential development in rural areas. It seeks to direct rural housing to sites with unimplemented planning permissions and supports limited infill housing in identified settlements. Finally, the policy offers support for housing in rural areas subject to specific exceptions.
7. The appeal site does not benefit from an unimplemented planning permission. It is also not located within one of the identified settlements. Consequently, the proposal is in direct conflict with the locational requirements of the policy.
8. Having regard to the other exceptions within Policy HO10, the proposal is not for an affordable dwelling and therefore does not comply with the requirements of Policy HO11. In addition, the proposal does not seek to make the optimal use of a heritage asset or meet the essential need for a rural worker dwelling.
9. The policy does make provision for development which would represent exceptional quality or innovative design and it is the appellant's case that in this respect, the proposal would be exemplar. The proposed architecture would be contemporary in its nature but there is little in the evidence before me to suggest why such an approach would be innovative or exceptional. In addition, although the proposal refers to a number of environmental credentials within the development, there is nothing compelling within the evidence to confirm what impact this approach to construction would have. In my view therefore, based on the evidence before me, I have no reason to conclude that the proposal would be of exceptional quality or innovative design. Accordingly, it would fail to comply with this exception within the policy.
10. It is also suggested that the proposed properties could be rented on a short-term basis. In this respect, the proposal could bring with it economic benefits to the subsequent site owners as well as towards the tourist and leisure economy. However, the appeal provides no means to secure such tenure. Consequently, in the absence of a specific mechanism to control this matter, the proposed houses could be made available on the open market. Accordingly, I attach limited weight to this matter.
11. The proposal would also contribute to local housing supply. However, I have no evidence before me to suggest that the Council's housing supply position is not favourable. Furthermore, due to the scale of the proposal, in any event the contribution would be limited. Consequently, I also attach little weight to this matter.
12. Accordingly, in light of the requirements of the LP, and on the basis of the evidence before me, I conclude that the appeal site is not a suitable location for housing. It would therefore fail to comply with Policy HO10 of the LP which seeks to control residential development in rural areas.

### *Flood risk*

13. In the original application, the submitted Design and Access statement suggests that the appeal site is located within Flood Zone 1. However, the

Council's Drainage Engineers have confirmed that part of the site falls within Flood Zones 2 and 3. This matter has not been subsequently disputed by the appellant through the appeal. As a consequence, based on the evidence before me, I have no reason to dispute the conclusion provided by the Council's drainage expert. Therefore, in accordance with Paragraph 163 of the National Planning Policy Framework (the Framework), the proposal should be supported by a site-specific flood risk assessment.

14. The proposal has been accompanied by drawing number WV(3)111 which is titled 'Flood Risk Assessment, Flood Deflection'. This drawing details the location of the flood zones, refers to site levels and also indicates the location of a flood deflection pond. However, the Framework states that development should only be allowed in areas at risk of flooding, where specific requirements can be demonstrated. These are: a) within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location; b) the development is appropriately flood resistant and resilient; c) it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate; d) any residual risk can be safely managed; and e) safe access and escape routes are included where appropriate, as part of an agreed emergency plan.
15. Based on the evidence before me, I cannot be certain that these requirements would be satisfactorily complied with. Consequently, I conclude that the proposal would have a harmful effect on flood risk. It would therefore fail to accord with the policy requirements of the Framework which seek to ensure that flood risk is not increased elsewhere through development.

#### *Trees*

16. Policy NE2 of the LP expects existing trees with biodiversity, visual, and landscape value to be retained, protected and appropriately managed. In addition, at paragraph 6.2.4 of the LP, it states that an Arboricultural Impact Assessment will be required with all planning applications where trees are likely to influence or be affected by development.
17. The appeal site has a number of mature trees on it, including 2 protected trees, and a tree survey has been provided in the form of drawing number WV(3)109. However, as identified by the Council, this has not been undertaken in accordance with the relevant British Standard. In addition, no impact assessment has been provided despite demolition being proposed very close to a protected Red Oak.
18. It is suggested that a condition could be attached to ensure suitable protection for the protected trees. However, because the impact of the development is unknown, I cannot be certain that suitable protection could be provided. Accordingly, the suggested condition would be unreasonable because its protection aims may be unable to be complied with. Consequently, based on the evidence before me, I cannot be certain that the proposed development would not harm the protected trees.
19. Therefore, in the absence of specific evidence, I conclude that the proposal could have a harmful effect on trees on the site. Accordingly, it would fail to comply with Policy NE2 of the LP which seeks to protect existing trees.

**Conclusion**

20. For the reasons identified above, the appeal is dismissed.

*Martin Chandler*

INSPECTOR