
Appeal Decision

Site visit made on 3 September 2019

by M Aqbal BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date 17 December 2019

Appeal Ref: APP/J1860/W/18/3216837

Clay Green Farm, Folly Road, Alfrick WR6 5HN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for approval to details required by a condition of a planning permission.
 - The appeal is made by Mr Stephen Ingram, Two Rivers Developments against the decision of Malvern Hills District Council.
 - The application Ref 17/00598/RM, dated 31 March 2017, sought approval of details pursuant to condition 2 of planning permission Ref 14/00894/OUT, granted on 22 July 2016.
 - The development proposed is outline application with all matters reserved for a residential development comprising up to 21 dwellings (including affordable housing).
 - The details for which approval is sought are: access, appearance, landscaping, layout, and scale.
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Decision

1. The appeal is allowed and the reserved matters are approved, namely access, appearance, landscaping, layout, and scale details submitted in pursuance of condition 2 attached to planning permission Ref 14/00894/OUT dated 22 July 2016, subject to the schedule of conditions to this decision.

Preliminary Matters

2. Outline planning permission, Ref 14/00894/OUT, establishes the principle of the proposed development for up to 21 dwellings. The appeal proposal seeks approval of the reserved matters: access, appearance, landscaping, layout, and scale. I have assessed and determined the appeal on this basis.

Main Issues

3. Although there is no formal decision from the Council, it has considered the submitted details and indicated that had it been in a position to determine the application it would have refused these. In summary, the Council's concerns are that the proposal: a) by virtue of its high density, cramped layout and over engineered appearance would fail to successfully integrate with the site's landscape setting and achieve an appropriate transition between the rural fringe of Alfrick and the wider countryside; and, b) would lead to an intensification of traffic generation along a substandard access resulting in an unacceptable risk to highway safety.
4. Accordingly, the main issues are the effect of the proposal on: a) the character and appearance of the area; and, b) the access and driveway to the site with regard to highway safety.

Reasons

Character and appearance

5. The appeal site comprises predominantly brownfield land located to the east of existing dwellings which lie within the development boundary of Alfrick. Two Grade II listed buildings (former farmhouse and a converted outbuilding) adjoin to the south-west, and the land to the south-east and north-east is in agricultural/equestrian use. The site contains a number of undistinguished barns and outbuildings of mixed scale and appearance; a significant proportion of the open areas is given over to hard surfaces. The site has a rundown and unkempt appearance.
6. Based on my observations and the findings of the Inspector who allowed the outline planning permission on appeal¹, in landscape terms, the site because of its layout and the agricultural nature of its buildings, retains the appearance of a farmstead. While the site has clear affinity with the built-up area, including the adjacent residential development which has spread towards it, the farmstead continues to be perceived as part of the countryside, consistent with the prevailing rural character of Alfrick. Further, the farmstead provides a transition between the housing and the open countryside. The rural character of the site is most apparent in views from the Public Rights of Way (PROW) to the north-east and south-east of the site.
7. The north-east boundary of the site is on a plateau relative to the adjacent field and therefore prominent in views from the adjacent PROW. However, the extent of development as shown on the indicative layout on the outline permission has been reduced along this boundary. This, and the proposed informal layout would contribute to the openness of this part of the site. In addition, the creation of an area of open space incorporating landscaping on land immediately adjacent to this boundary, when established would change its character and provide a buffer to the new development. This would also soften and integrate this built edge of the site with the wider countryside.
8. Along the south-east boundary, in comparison to the existing larger buildings, the new domestic properties would be smaller and located deeper into the site behind areas of open space. In combination with the existing trees and hedgerow, this arrangement would enable development here to assimilate with its landscape setting and the countryside.
9. Having regard to the extant situation and the juxtaposition and design of the new buildings² relative to the listed buildings, the proposed scheme would preserve and enhance the setting of the listed buildings. These buildings along with the open space about them would also make an appropriate transition from the built extent of Alfrick.
10. There would be a concentration of dwellings towards the north-east corner of the site, incorporating some frontage parking. Nonetheless, due to the backland location of the site, views of this part of the scheme would be limited from along the proposed diverted PROW (678/B) through the site. Irrespective of this, these dwellings would be seen in the context of areas of open space, and internal roads which due to their shared surface design and modest width would be appropriate to the site's rural context. The appearance and scale of

¹ APP/J1860/W/15/3062074

² Plots 1,2,20 and 21

the proposed dwellings would appropriately reference the local varied forms of architecture and would form a small cohesive group of dwellings creating a positive sense of place. Such an arrangement would be characteristic of 'small clumped groups of housing'³ found elsewhere in Alfrick. The scheme has also been designed to generally accord with the Council's design guidance⁴ and despite its higher density compared to the adjacent housing, this does not exceed the indicative 30 dwellings per hectare referenced under Policy SWDP 13 of the South Worcestershire Development Plan (SWDP).

11. Based on the submitted details the new development would bring change to the site. However, drawing on the above reasons, it would successfully integrate with the sites landscape setting and achieve an appropriate transition between the rural fringe of Alfrick and the wider countryside. Development within the site would not appear unduly cramped or create an over engineered street scene.
12. For the above reasons, I conclude that the proposal would not harm the character and appearance of the area. I therefore find no conflict with SWDP Policy SWDP 21, which amongst other things requires that the siting and layout of a development should reflect the given characteristics of the site in terms of its appearance and function, and that development at the urban edges should respect the rural setting. The proposal also accords with Policy SWDP25 which requires developments to integrate with the character of the landscape setting of the area. As these policies are broadly consistent with design aims of the National Planning Policy Framework (The Framework) the proposal also accords with this.

Highway safety

13. The proposed scheme utilises the existing access and driveway to the site, off Folly Road. This also serves the former farmhouse and converted outbuilding, along with forming part of the route for two PROW, 678(B) and 688(B). On the available evidence Folly Road is a lightly trafficked road where vehicles generally travel below the 30mph speed limit.
14. The majority of the site (building and yard areas) has a Certificate of Lawfulness of Existing Use or Development for agricultural contracting (use class B8). Notwithstanding this, I concur with the main parties that the proposal would result in an increase in vehicular traffic, and pedestrian and cyclists using the access and driveway. There is considerable disparity between the main parties on the extent of any such increase and neither party has clearly substantiated this. Nevertheless, even based on the appellant's lower estimate, the increase would be marked.
15. To improve the access, alterations to its junction with Folly Road are proposed to achieve 2.4m x 43m visibility splays, in both directions. Based on the speed survey submitted at appeal these visibility splays would meet the recommended standard⁵. The alterations include the corner radii to the access being increased, which the Council's highways consultant⁶ argues would allow vehicles to turn faster into the access and reduce inter-visibility between

³ Alfrick and Lusley Parish Council – The parish Design Statement (Updated September 2011)

⁴ The South Worcestershire Design Guide Supplementary Planning Document

⁵ Table 7.1, Manual for Streets

⁶ David Tucker Associates – Appeal Statement

motorists and pedestrians using the access. However, there is no clear evidence of the extent and impact of this relative to the existing arrangement.

16. In any event, the increase in corner radii would in part reduce the width of Folly Road near the access. Based on the advice in Manual for Streets (MfS) and having considered the technical note⁷, in my view these alterations along with the pedestrian crossing points near the access would give the junction a greater presence along Folly Road, enabling drivers to exercise greater caution and further reduce speeds on approaching it. On the available evidence I am satisfied that these alterations would not unacceptably impede the access to any other dwelling along Folly Road.
17. MfS (Figure 7.1) shows that two private cars can pass each other, and a car could pass a cyclist in a 4.1m road width. The width of the driveway varies and in parts is less than 4.1m. Nevertheless, this in combination with its limited length and shared use means that vehicles using it do so at relatively low speeds. The driveway has also been used in association with the site's agricultural and commercial uses which generally operate larger vehicles. Despite this, on the evidence before me the access, driveway and Folly Road operate safely. In addition, the proposed residential scheme would largely generate private vehicle traffic, therefore the probability of two large vehicles not being able to pass each other or one having to reverse to allow another to pass would be low.
18. Consequently, the lack of areas for vehicles to pull-in and the shared use of the driveway do not represent any significant level of conflict that signifies an unacceptable level of risk to road users. Tracking details show that larger service vehicles (up to 32 tonne) would be able access and turn within the site.
19. Drawing on the above reasons, the proposal would intensify the use of the access and driveway to the site. On the other hand, the junction of the access with Folly Road would be improved in respect of highway safety. This combined with the low speed of traffic and the absence of any significant highway safety issues in the area, lead me to conclude that the residual cumulative impacts of the development are unlikely to be severe and there would be no unacceptable impact on highway safety arising from the use of the access and driveway.
20. As such, the proposal accords with SWDP Policy SWDP 4 which amongst other matters requires that proposals demonstrate that they address road safety. Also, there would be no conflict with Policy SWDP 21 of the SWDP which requires that vehicular traffic from the development should be able to access the highway safely and the road network should have the capacity to accommodate the type and volume of traffic from the development. Accordingly, I find no conflict with the Framework⁸, in respect of highway safety.

Other Matters

21. As already stated, this appeal relates to the approval of reserved matters, therefore there is no scope for me to consider matters, for example, the location of the site for housing, ecology, drainage, and on-site contamination which were, or should have been, dealt with at the outline stage. Issues relating to land ownership and works to hedges on land outside the site are not

⁷ Robert West Technical Note on behalf of the Alfrick and Lulsley Residents Group Limited, dated 21 August 2018

⁸ Paragraph 109

within the remit of this appeal. There is also no clear technical evidence to support the suggestion that the proposal may undermine an existing tree near the site to the detriment of health and safety.

22. The parking for the development meets with the Council's requirements and is unlikely to affect roadside parking. Given the separation distances achieved to existing dwellings and subject to proposed boundary treatments, along with the provision of obscure glazing, the proposal would not result in any significant adverse effect on the privacy of neighbours. Irrespective of local need, there is no clear policy reason for dismissing the submitted scheme on the basis of the lack of bungalows within it.
23. The Ramblers Association (RA) has objected to the proposed diversions of PROW-678(B) which would be partly along a road through the site. The RAs preference is for a dedicated path through landscaped or open space areas away from vehicular traffic. This issue was addressed in both the Council's committee reports, and I have also considered it, but this does not lead me to take a different stance from the Council or alter my findings on the main issues. In any event, the diversion of the PROW would be considered under a separate process.

Conditions

24. I have considered the conditions put forward by the Council in light of the requirements of the Planning Practice Guidance (PPG) and the Framework. I have included a condition specifying the relevant drawings and plans as this provides certainty (Condition 1). Although a landscaping scheme been provided⁹, which is broadly acceptable, I share the concerns raised by the Council in relation to matters of detail. As such, I have specified a condition requiring a further scheme (Condition 3). This along with details of proposed materials and design (Conditions 2 and 4) are important to ensure the satisfactory appearance of the development and safeguard the setting of the listed buildings. The maintenance of the approved landscaping is dealt with under the outline permission¹⁰. In the interests of safeguarding the appearance of the area and wildlife, details of proposed boundary treatments are also required (Condition 5).
25. Improvements to the site's access and highway works within the site are needed in the interests of highway safety (Conditions 6 and 7). Conditions 10 and 11 are necessary to safeguard the living conditions of neighbours.
26. The PPG¹¹ advises that conditions restricting the future use of permitted development rights will rarely pass the test of necessity and should only be considered in exceptional circumstances. On the information available to me Condition 9, removing permitted development rights for certain alterations and extensions to dwellings in proximity of the listed buildings is necessary to safeguard these heritage assets, and Condition 8 which removes permitted development rights for boundary treatments and enclosures is necessary in the interests of safeguarding heritage assets and wildlife. No exceptional circumstances have been demonstrated for removing permitted development rights in general for other dwellings on the site.

⁹ Detailed Plot & POS Soft Landscape Proposals 1:200 - Dwg No. 17-011-01 Rev H

¹⁰ Condition 19 of planning permission Ref:14/00894/OUT

¹¹ Paragraph: 017 Reference ID: 21a-017-20140306

27. A condition requiring infrastructure to facilitate the installation of electric vehicle charging points does not relate to any of the reserved matters and is therefore not necessary.
28. Conditions 2, 3 and 4 which prevent any development approved from commencing until they have been complied with, are considered fundamental to the development hereby approved. It is necessary for them to take the form of 'pre-commencement' conditions in order to have their intended effect. Where necessary and in the interests of clarity and precision, I have altered the conditions to better reflect the relevant guidance.

Conclusion

29. For the above reasons, I conclude that the appeal should be allowed.

M Aqbal
INSPECTOR

Schedule of Conditions

1. Subject to any details required by other conditions attached to this reserved matters approval, the development hereby approved shall be carried out in accordance with the following plans: Site Location Plan 1:1250 - Dwg No. SJD-136-001 Rev. N; Proposed Site Plan - Dwg No. SJD-136-002 Rev. Z6; Detailed Plot & POS Soft Landscape Proposals 1:200 - Dwg No. 17-011-01 Rev H; House Type H & B1 1:100 - Dwg No. SJD-136-005 Rev. P; House Type E & Type A1 1:100 - Dwg No. SJD-136-006 Rev. R; House Type B & C 1:100 - Dwg no. SJD-136-007 Rev. U; Street Scene 1 of 2 - Dwg No. SJD-136-003 Rev. W; Street Scene 2 of 2 - Dwg No. SJD-136-004 Rev. W; Perspective Views - Dwg No. SJD-136-015 Rev. H; House Types M3 & M4 1:100 - Dwg No. SJD-136-017 Rev. E; Car Barns 1:100 - Dwg No. SJD-136-018; Suds Pond - Dwg No. 6973-106 Rev. P0 and Works to Existing Highway 1:250 - Dwg. No. 6973-105 Rev. P6.
2. Notwithstanding the submitted details, no development above ground floor shall take place on site until details and samples of all materials to be used in the construction of the development including all external surfaces, hard landscaping and rainwater goods have been submitted to and approved in writing by the local planning authority. The details shall include information on specifications, materials and finishes. Thereafter the development shall be carried out in accordance with the approved details.
3. No development shall commence on site until a scheme for soft landscaping has been submitted to and approved in writing by the local planning authority, the scheme shall include:
 - (a) details of any trees and hedgerows to be retained, together with measures for their protection during the course of the development.
 - (b) schedule of proposed planting (indicating species, sizes at time of planting and numbers/densities of plants).
 - (c) written specification outlining cultivation and other operations associated with plant establishment.
 - (d) finished levels and contours.

The approved scheme shall be carried out concurrently with the development and completed prior to the first occupation of the dwellings hereby approved.

If within a period of 10 years from the date of the planting of any tree planted pursuant to this condition, that tree or any tree planted in replacement for it, is removed, uprooted or destroyed or dies, or becomes, in the opinion of the local planning authority, seriously damaged or defective, it shall be replaced by another tree of the same species and similar size at the same location.
4. No development shall commence on site until the following information for Plots 1, 2, 20, 21, 12 and 13 has been submitted to and approved in writing by the local planning authority: (i) Large scale details of all external joinery including glazing panels (1:5 elevation, 1:2 section) and including vertical and horizontal cross-sections through openings to show the positions of joinery within openings, depth of reveal, heads, sills and lintels. Full details

of any external flues, ventilation systems, soil/vent pipes and their exits to the open air. Thereafter the works shall be carried out in accordance with the approved details.

5. Notwithstanding the submitted details and before the first occupation of any of the dwellings hereby approved, a plan indicating the positions, design, materials and the heights of all boundary treatments to be erected, including an implementation timetable shall be submitted to and approved in writing by the local planning authority. The details shall include provisions for hedgehogs to pass through the boundary treatments. Thereafter the boundary treatments shall be carried out in accordance with the approved details.
6. The dwellings hereby approved shall not be occupied until the site access works as shown on Drawing No. 6973-105 Rev. P6 have been constructed and completed.
7. The dwellings hereby approved shall not be occupied until the access, parking and turning facilities have been provided as shown on Proposed Site Plan - Drawing No. SJD-136-002 Rev. Z6.
8. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order), no developments within Schedule 2, Part 2, Class, Class A, other than those expressly authorised by this permission shall be carried out on the development site as edged red on Site Location Plan 1:1250 - Dwg No. SJD-136-001 Rev. N.
9. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order), no development within Schedule 2, Part 1, Classes A, B, C, D, E, F or G shall be carried out on Plots 1, 2, 12, 13, 20 and 21 (as shown on Proposed Site Plan - Dwg No. SJD-136-002 Rev. Z6)
10. Before the first occupation of the dwelling on Plot 2 hereby permitted, the first floor windows on the side elevation (as shown on Dwg No. SJD-136-017 Rev E) shall be fitted with Pilkington Level 4 obscured glazing or equivalent and any part of the windows that is less than 1.7m above the floor of the room in which it is installed shall be non-opening. The windows shall be permanently retained in that condition thereafter.
11. Before the first occupation of the dwelling on Plot 7 (as shown on Dwg No. SJD-136-006 Rev. R) and the dwellings on Plots 12 and 13 (as shown on Dwg No. SJD-136-005 Rev. P) the first floor bathroom windows on these dwellings shall be fitted with Pilkington Level 4 obscured glazing or equivalent and any part of the window(s) that is less than 1.7m above the floor of the room in which it is installed shall be non-opening. The windows shall be permanently retained in that condition thereafter.