The Planning Inspectorate

# Appeal Decision

Hearing Held on 26 November 2019
Site visit made on 26 November 2019

**by M Aqbal BA (Hons) DipTP MRTPI**

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

**Decision date: 23 April 2020**

**Appeal Ref: APP/D1835/W/19/3234845**
**Old Northwick Farm, Northwick, Worcester**

- 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 Matthew Crucefix, Stonewater against the decision of Worcester City Council.
- The application Ref P19E0021 dated 23 December 2018, was refused by notice dated 25 July 2019.
- The development proposed is development of 62 new homes with associated access and landscape work.

## Decision

1. The appeal is allowed and planning permission is granted for development of 62 new homes with associated access and landscape work at Old Northwick Farm, Northwick Worcester, in accordance with the terms of the application Ref P19E0021, dated 23 December 2018, and subject to the schedule of conditions to this decision.

## Application for costs

2. An application for costs was made by Stonewater against Worcester City Council. This application is the subject of a separate decision.

## Preliminary Matters

3. At appeal, under the provisions of S106 of the Town and Country Planning Act 1990 a planning obligation in the form of a Unilateral Undertaking (UU) was provided. I shall return to this later on in my Decision.

## Main Issue

4. Although the Council's decision includes two reasons for refusal, based on the signed Statement of Common Ground (SoCG) the Council advises that at the special meeting of the Planning Committee on the 17 October 2019, the Planning Committee resolved not to defend the first reason for refusal, that is, the position of the appeal site in terms of travel demand and sustainable travel choices. This was confirmed at the event and based on the evidence available to me[1], I have no clear reason to take a different view.

[1] Application P19E0021 – Council's report to Planning Committee 25 July 2019

5. Accordingly, the main issue is whether the site is suitable for housing with particular regard to flood risk.

**Reasons**

6. The appeal site forms a Greenfield site which is allocated for an indicative 54 dwellings (Policy SWDP43/4), as set out in table 11: Sites for Housing of the adopted South Worcestershire Development Plan (2016) (SWDP). It also benefits from a planning consent (Ref P16E0451) for 52 dwellings, granted in June 2018.

7. Since planning consent was granted, the appellant has acquired the site and is proposing the appeal scheme for 62 dwellings. During the application process, based on concerns relating to historic flooding associated with the appeal site, a third party instructed Lidar-Logic to investigate flood risk at the site. The findings of Lidar-Logic have also been used to defend the Council's reason to refuse the application on the basis of flood risk.

8. The appeal site is located close to the River Severn floodplain, which has been subject to detailed hydraulic modelling. The site is classified as being within fluvial Flood Zone 1, defined as land beyond the limits of 1:1,000-year flooding. However, the Environment Agency (EA) mapping previously located the southern part of the appeal site in Flood Zone 2, defined as land within the extreme flood outline. This land was later assessed from hydraulic modelling to be beyond the 1:1,000-year limits and re-classified as Flood Zone 1.

9. During the course of the application the EA confirmed that they have vertical aerial video, collected during a period of flooding in October/November 1998, which was used as the basis for the previous classification of the site as fluvial Flood Zone 2. This evidence has not been made available during the appeal process. Nonetheless, the Council and others argue that previous flooding events at the appeal site were potentially caused by ground water flooding. This is when water held beneath ground level is forced on to the surface.

10. The appeal site was considered by the Strategic Flood Risk Assessment (SFRA) (JBA Consulting, 2012, South Worcestershire Strategic Flood Risk Assessment Level 2 Update) along with other allocation sites, that were proposed for inclusion in the SWDP.

11. The SFRA undertook an initial scoping assessment, in order to identify the level of flood risk at these sites and the need for further, more detailed work. In the case of the appeal site, the SFRA included the recommendation that: *"The site falls within an area indicated to potentially be susceptible to groundwater emergence. Further assessment of groundwater risk would be required, and an assessment of suitable surface water mitigation techniques should be made at the detailed FRA level".*

12. The application is supported by a site-specific Flood Risk Assessment (FRA). This confirms that the appeal site is underlain by bedrock. The bedrock is classified by the EA as a secondary B aquifer whilst the superficial deposits are designated as a secondary A aquifer. Secondary B aquifers are defined as predominantly lower permeability layers which may store and yield limited amounts of ground water due to localised features such as fissures, thin permeable horizons and weathering. Secondary A aquifers are assigned where permeable layers are present, capable of supporting water supplies at a local

rather than strategic scale, and in some cases forming an important source of base flow to rivers.

13. In respect of ground water flooding the FRA acknowledges that the underlying strata are capable of transmitting ground water. Further, that historic ground investigations did not encounter groundwater in trial pits, albeit these were undertaken in July. The FRA concludes that the site is considered to be at low risk from groundwater flooding.

14. Nevertheless, according to Lidar-Logic, rainwater falling on the permeable alluvium would sink in, recharging the aquifer. Under dry conditions or relatively low rainfall, groundwater would seep slowly out of the alluvium on to the lower land to the west or, more likely perhaps, into the tributary stream to the north east forming a spring line. However, during periods of heavy rainfall, the aquifer would recharge more rapidly and if the tributary stream went out of bank, flow from the aquifer into the stream could be temporarily reversed. Floodwater from the stream could start to recharge the aquifer. Both high rainfall and fluvial floodwater could raise the level of groundwater in the aquifer. This rise would continue as long as the aquifer was confined on all sides but once it reached a critical level, on the site's eastern margin, groundwater would spill out on to the site.

15. Lidar-Logic further state that the above mechanism would cause flooding, which could be relatively severe. Since it only occurs under a set of very specific circumstances, nothing is observed until a period of heavy rainfall, which may require fluvial flooding along the tributary stream. Further, that this may explain the floodwater on the site reported to the EA after the July 2007 event, and the flooding witnessed by local residents and an MP during the February 2014.

16. On the information available to me there is some evidence of floodwater at the appeal site in 2007. I have also been provided photographs in relation to the 2014 flooding event, along with an email from an MP confirming seeing large parts of the site under water. There is also some anecdotal evidence of earlier flooding in the area. Nonetheless, from these I cannot be certain as to the extent of groundwater flooding in relation to the proposed development area.

17. Most notably, according to the Council's report to Planning Committee on 25 July 2019, the debris line from the 2014 flood was surveyed at approximately 16.20mAOD and is located beyond the western boundary of the appeal site. Furthermore, the lowest floor level proposed is 17.44mAOD, about 1.2 metres above the 2014 flood level. Consequently, flood waters would need to be 1.2 metres higher across the whole river valley to threaten the proposed development.

18. In relation to groundwater flooding, the Council's Committee Report states that such events tend to occur away from watercourses, in low lying areas where groundwater emerges from the surface and the topography is such that the water has nowhere to go, causing local flooding. Further, that this is not the case at this site, where the site levels fall away towards the River Severn. Any groundwater flows would therefore need to raise the water level in the entire river valley to cause groundwater flooding in this manner. For groundwater flows to raise the flood levels above 17.43mAOD (1 in 100 year + 70% climate change level) such that they could encroach onto the site, the groundwater would have to contribute to raising the flood levels across the entire width of

the valley by over 1.2m above the 2014 recorded level. The flows from groundwater would need to increase flows in the river channel by 70% when compared to the flows during the 2014 event.

19. In addition, the Council's consultee - South Worcestershire Land Drainage Partnership and the Local Lead Flood Authority take the view that the only evidence for groundwater emerging above ground level was in the southern half of the site. The source, being rainfall falling on the permeable areas combined with long duration, critical return period fluvial flood levels generated by the River Severn raising groundwater levels and upwards capillary movement of water. Further, that the applicant has accepted that the risk from groundwater needs to be catered for and is prepared to install land drainage infrastructure to deal with this.

20. Furthermore, the appellant advises that the proposed development would not increase flood risk elsewhere and that the theoretical risk of ground water entering the site from the east can be appropriately managed by developing site levels to provide overland flow routes such that any water crossing the site from the east can make its way, as existing, to the River Severn and not affect the proposed residential units or increase downstream flood risk.

21. Drawing on the above reasons, the area of the proposed development is classified as the lowest level for flood risk (Flood Zone 1) and the evidence of historic flooding associated with the proposed development area being as a consequence of groundwater flooding is limited, irrespective of this potential groundwater can be mitigated by land drainage which can be secured by conditions. Furthermore, due to its speculative nature, I attach limited weight to the possible mechanism for groundwater flooding identified by Lidar-Logic. Notwithstanding this, as already stated, the appeal site benefits from an extant planning consent for 52-dwellings, and the appellant has advised that in the event that this appeal is dismissed, the extant consent would be implemented. I see no clear reason to doubt this.

22. The proposed scheme is also expected to reduce the area of impermeable surfaces on the site by 20% along with a small reduction in beds compared to the extant scheme. I also agree with the main parties that the suggested removal of permitted developments by condition would further limit impermeable surfaces at the appeal site.

23. Given the above circumstances, allowing the appeal and granting planning permission for the proposed scheme, does not significantly increase flood risk, over and above that associated with developing the site under the extant planning permission. Consequently, the site is suitable for housing with regard to flood risk.

24. For the above reasons, I find no conflict with the overall aims of the National Planning Policy Framework (the Framework), which amongst other things requires that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future).

**Other Matters**

25. The signed and completed UU includes obligations relating to the on-site provision of a minimum of 30% affordable housing. According to the Council

this is in accordance with the requirements of Policy SWDP 15 of the SWDP. Further, the UU secures the provision of on-site public open space and financial contributions towards a travel plan, transportation infrastructure and off-site open space. Based on the Council's evidence these obligations and financial contributions are all directly related to the development, fairly and reasonably related in scale and kind to the development and are in place to mitigate the effects of the development where appropriate. The UU also complies with the tests set out in the Framework, the advice in the Planning Practice Guidance (PPG) and with Regulation 122 of The Community Infrastructure Levy Regulations 2010 (as amended).

26. Based on the evidence submitted by the appellant and in the absence of any technical evidence to the contrary, I am satisfied that the proposed development would not result in any significant harm in relation to biodiversity and wildlife.

27. There is no clear evidence that the existing health and education infrastructure and facilities are insufficient to cope with demand arising from the proposal. With regard to highways implications, a scheme for 62 dwellings would increase the number of vehicles using the local highway network. Nonetheless, there is little technical evidence before me to suggest that this along with other developments in the area would have an adverse impact on the existing network with regard to highway capacity and safety. My views on this matter are supported by the lack of objection from the highway authority.

28. Despite being Greenfield land, the site is allocated for housing with an extant planning consent. Therefore, the development of the site for residential use is supported by the Council's development plan to meet its housing supply needs. Further, based on the proposed density, layout, design and landscaping, I am satisfied that the scheme would preserve the character and appearance of the Riverside Conservation Area.

29. Whilst most construction works result in some level of inconvenience, to an extent this can be managed by a condition requiring a Construction Method Statement (CMS).

**Conditions**

30. The main parties agreed a list of suggested conditions in advance of the hearing as set out in the SoCG. These formed the basis of discussion at the event. In imposing conditions, I have had regard to the Framework and the PPG. In addition to the standard timescale condition, I have imposed a condition specifying the relevant plans and document as this provides certainty. Conditions requiring samples of proposed materials and the implementation and maintenance of landscaping are necessary to ensure the satisfactory appearance of the development and the area. The provision of access, parking and turning areas for dwellings are necessary to ensure accessibility and safety of highway users.

31. Noting the concerns raised by local residents, I agree that a condition to minimise the disruption caused by construction activity on neighbours by requiring a CMS is both necessary and reasonable. Conditions are also necessary to safeguard any archaeological interests of the site.

32. A condition relating to foul drainage details is necessary to avoid local pollution. In addition, conditions requiring specific details in regard to surface water drainage, sustainable urban drainage systems (SuDS), infiltration testing, minimum finished floor levels and the control of certain structures at the site are all necessary in the interests of securing satisfactory drainage of the site and managing flood risk. For the reason already discussed, there is an exceptional reason to remove certain permitted development rights by condition which could otherwise increase the extent of built development and hard surfaces at the appeal site.

33. In accordance with Policy SWDP 27 of the SWDP it is reasonable to require a proportion of energy sources to be renewable and for water efficiency measures to be provided within the development. Therefore, a condition requiring details of renewable and sustainable measures (including household water management measures) is imposed.

34. Refuse/recycling storage and access routes to these, along with details of existing landscape are shown on the submitted plans. Also, at the event it was agreed that there was no requirement for directional and interpretation signage and that details of external lighting would be dealt with through the implementation of the highway works. As such, the Council's suggested conditions requiring such details are not necessary.

35. Conditions 3-8 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**

36. For the above reasons and having regard to all matters raised, I conclude that the appeal should be allowed.

*M Aqbal*
INSPECTOR

FOR THE APPELLANT

| | |
|---|---|
| Colin Davidson BEng(Hons) CEng MICE MISTRUCTE | CRADDYS |
| Claire Grahams | Stonewater |
| Sian Griffiths MRTPI MRICS | RCA Regeneration Limited |

FOR THE LOCAL PLANNING AUTHORITY

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|---|---|
| Alan Coleman | Worcester City Council |
| Georgina Coley | Worcester City Council |
| Killian Garvey | Barrister – Kings Chambers |
| Chris Nugent | Lidar-Logic |

INTERESTED PERSONS

| | |
|---|---|
| Councillor Andy Stafford | Local councillor |
| Pam Andrews | Local resident |
| Donald Benyon | Local resident |
| Alice Simms | Local resident |
| Hillary Stephens | Local resident |

DOCUMENTS SUBMITTED AT OR AFTER THE HEARING

1. Copy of completed Unilateral Undertaking, dated 25 November 2019
2. Response to costs application on behalf of Worcester City Council
3. Copy of drawing - 17075 21.B HT D-D-D Floor plans and Elevations

## SCHEDULE OF CONDITIONS

1 The development must be begun not later than the expiration of three years from the date of this permission.

2 The development hereby approved shall be carried out in accordance with the following approved plans and document: 17075 01 B Site location plan; 17075 02 H Site Layout; 17075 03 A Proposed site layout block plan; 17075 04 A Site proposed constraints plan; 17075 05 B Site sections; 17075 06 B Site Sections street scene; 17075 07 A Proposed boundary treatments; 17075 08 A Proposed site plan Bikes, Bins, Car parking; 17075 14 A HT EE Floor and elevations plan; 17075 15 A HT A(1) Floor and elevations plan; 17075 16 B HT A (2) Floor and elevations plan; 17075 16 A HTA Floor and elevations plan; 17075 17.B_HT B-B Floor Plans and Elevations; 17075 18.B_HT B Floor Plans and Elevations; 17075 18.A_HTB Floor Plans and Elevations; 17075 19.A_HTDD(1)_ Floor Plans and Elevations; 17075 19.B_HT D-D(1)_ Floor Plans and Elevations; 17075 20.A_HTDD(2)_ Floor Plans and Elevations; 17075 20.B_HT D-D(2)_ Floor Plans and Elevations; 17075 21 - A_HTDDD Floor Plans and Elevations; 17075 21.B_HT D-D-D Floor Plans and Elevations; 17075 22.A_HTDF Floor Plans and Elevations; 17075 22.B_HT D-F Floor Plans and Elevations; 17075 23.A_HTFF(1)_ Floor Plans and Elevations; 17075 24.B_HT F-F(2)_ Floor Plans and Elevations; 17075 24.A_HTFF(2)_ Floor Plans and Elevations; 17075 25.A_HTFE Floor Plans and Elevations; 17075 25.B_HT F(1)- Floor Plans and Elevations; 17075 26.A_HTFG Floor Plans and Elevations; 17075 28.A_APTII Floor Plans and Elevations; 17075 28.B_APPT I-I Floor Plans and Elevations; 17075 29.B_APPT_1 Floor Plans and Elevations; 17075 29.A_APPT_1 Floor Plans and Elevations; 17075 30.B_HT F(2) E-Floor Plans and Elevations; 416.08797.00001.29.002.2 and 416.08797.00001.29.003.2 Hard and Soft Landscape plan sheet 1 and 2; 11405-0005b S38 Vehicle Swept Path Analysis; 17075/31 A - 3D Aerial View and Ecological Appraisal – Prepared by SLR - Ref: 416.08797.0001, Version 1, December 2018.

3 The development hereby approved shall not commence until samples of facing, roofing, surfacing materials and boundary treatments have been submitted to and approved in writing by the local planning authority. Thereafter the development shall be carried out in accordance with the approved details.

4 The development hereby approved shall not commence until details of all renewable and sustainable measures (including household water management measures) have been submitted to and approved in writing by the local planning authority. Thereafter the development shall be undertaken in accordance with the approved details.

5 The development hereby approved shall not commence until a scheme for the disposal of foul water has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details, prior to the first occupation of any dwelling hereby approved.

6 The development hereby approved shall not commence until a scheme for surface water drainage has been submitted to and approved in writing by the local planning authority. Prior to submission of the scheme an assessment shall be carried out into the potential of disposing of surface

water by means of a SuDS, and the results of this assessment shall be submitted to and approved by the local planning authority. There shall be no increase in surface water run-off from the site compared to the existing pre-application runoff rate up to a 1 in 100-year storm event plus an appropriate allowance for climate change. The scheme shall provide an appropriate level of runoff treatment.

The surface water drainage scheme shall include the following details: i) a timetable for its implementation, ii) a management and maintenance plan for the lifetime of the development which shall include the arrangements to secure the optimal functionality and performance of the surface water drainage scheme and SuDS throughout its lifetime, iii) future management responsibilities, along with maintenance schedules for all surface water drainage and SuDS features and associated pipework. Thereafter all surface water drainage and SuDS features shall be managed and maintained in accordance with the approved scheme.

7 The development hereby approved shall not commence until a Construction Method Statement (CMS) has been submitted to and approved in writing by the local planning authority. The CMS shall include the following: i) details of site operative parking areas and the location of site operatives facilities (offices, toilets etc.); ii) loading and unloading of plant and materials; iii) storage of plant and materials used in constructing the development; iv) the erection and maintenance of security hoarding; v) measures to ensure that vehicles leaving the site do not deposit mud or other detritus on the public highway; vi) measures to control the emission of dust and dirt during construction; vii) a scheme for recycling/disposing of waste resulting from construction works; viii) measures for the protection of the natural environment; ix) hours of construction, including deliveries; x) measures to manage surface water run-off during construction; xi) measures to mitigate impact on wildlife during construction period; xii) details of any temporary construction accesses and their reinstatement, a highway condition survey, timescale for re-inspections, and details of any reinstatement. Thereafter the development shall be carried out in accordance with the approved CMS.

8 The development hereby approved shall not commence until a programme of archaeological investigation 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: i) a programme and methodology for archaeological investigation and recording, including an archaeological mitigation strategy, archaeological field evaluation, excavation and archaeological watching brief; ii) provision to be made for unexpected archaeological discoveries; iii) a programme for post-investigation assessment; iv) provision to be made for analysis of the archaeological investigation and recording; v) provision to be made for publication and dissemination of the analysis and records of the archaeological investigation and recording; vi) provision to be made for archive deposition of the analysis and records of the archaeological investigation and recording; vii) nomination of a competent and appropriately qualified organisation(s) to undertake the works set out within the Written Scheme of Investigation. No development shall take place other than in accordance with the Written Scheme of Investigation approved under this condition.

9 No works in connection with site drainage shall commence until infiltration tests have been carried out in accordance with BRE Digest 365, or such other guidance as may be agreed in writing by the local planning authority. The results of the tests shall be submitted to and agreed in writing by the local planning authority and the agreed recommendations shall be implemented in full prior to the first occupation of the development hereby approved.

10 The development shall not be occupied until the archaeological investigation and post-investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition 8 and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

11 No dwellings hereby approved shall be occupied until the access, turning area and parking facilities for that dwelling have been constructed, surfaced and drained in accordance with the approved plans. Thereafter such areas shall be retained and kept available for access, turning and parking.

12 All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out by the developer in the first respective planting and seeding seasons following the occupation of any dwelling or the completion of the development, whichever is the sooner. Any trees or plants which within a period of five years from the completion of the landscape 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, and such replacement planting shall be similarly maintained for a five year period from its planting.

13 Finished floor levels shall be set no lower than 17.44m AOD which is above the 1 in 100 year plus climate change River Severn flood level.

14 There shall be no new structures (including gates, walls and fences) or raising of ground levels on land below 17.44m AOD, within the 1 in 100 year plus climate change floodplain inside or along the boundary of the site.

15 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 included within Schedule 2, Part 1, Classes A, E and F shall be carried out at the development site.