



Appeal Decision

Site visit made on 20 May 2020

by Martin Chandler BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 June 2020

Appeal Ref: APP/W1850/W/19/3237354

The Todding, Leintwardine, Craven Arms, Shropshire SY7 0LX

- 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 David Morris against the decision of Herefordshire Council.
 - The application Ref 192454, dated 2 July 2019, was refused by notice dated 30 August 2019.
 - The development proposed is demolition of barn and construction of self-build dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of barn and construction of self-build dwelling at The Todding, Leintwardine, Craven Arms, Shropshire SY7 0LX, in accordance with the details of application ref: 192454, dated 2 July 2019 and subject to the conditions in the attached schedule.

Main Issues

2. The main issues are:
 - i) whether the site would accord with the locational requirements of local plan policy for residential development;
 - ii) the effect of the proposal on local biodiversity; and
 - iii) the effect of the proposal on highway safety.

Reasons

Location

3. Policy RA2 of the Herefordshire Local Plan Core Strategy 2011 – 2031 (2015) (CS) relates to housing in settlements outside Hereford and the market towns. Within this policy, Leintwardine is identified as a settlement which will be a focus for proportionate housing development. Despite this, and as identified by a previous Inspector, the appeal site is *clearly separated from the village by a number of open fields and hedgerows. The appeal site is located well outside the built-up area of the village and within the open countryside. It could not reasonably be considered to be an extension to Leintwardine or lie within or adjacent to the village boundary.*¹

¹ APP/W1850/W/15/3032659

4. Based on the evidence before me, I have no reason to disagree with these findings. Accordingly, for the purposes of the CS, the appeal site is located within the open countryside. In addition, the proposal would not accord with the criteria identified within Policy RA3 of the CS which relates to Herefordshire's countryside.
5. In support of the proposal, the appellant refers to the relevance of the self-build nature of the development, as well as the housing supply position of the Council, and these are material considerations that will be returned to later in this decision. However, as identified above, I conclude that the location of the appeal site would not accord with the locational requirements of the CS for residential development. It would therefore fail to comply with Policies SS1, SS6, RA2 and RA3 of the CS. Taken together, and amongst other things, these promote sustainable development and establish how development will be managed outside Hereford and the market towns to conserve and enhance the county's distinctiveness, having particular regard to settlement pattern.

Biodiversity

6. The original planning application did not include suitable information in relation to the ecological value of the appeal site. However, evidence has subsequently been provided through the appeal and the Council have confirmed that it provides sufficient and relevant protection measures and biodiversity net gain in context to the scale and location of the development. Subject to suitably worded conditions, I have no reason to disagree with this response. Accordingly, I conclude that the proposal would have an acceptable effect on local biodiversity. It would therefore comply with Policies LD1 and LD2 of the CS, which taken together, seek to retain natural features and protect habitats and important species.

Highway safety

7. The Council have identified perceived flaws with the proposed access, suggesting that visibility would be substandard and that speed surveys have not been provided to justify shorter distances for visibility. However, they have not specified what distances they would deem to be acceptable. Moreover, when considering visibility in the previous appeal decision, the Inspector concluded that *the local road conditions in the vicinity of the access mean traffic speeds are reduced to a level where the sightlines achievable from the existing access are considered to be satisfactory, particularly having regard to the level of traffic that would be generated by the appeal proposal.*
8. The proposal would be likely to generate more traffic movements than the existing building. However, the findings of the previous Inspector on this matter weigh heavily in my assessment of the appeal. Despite the concerns of the Council and other interested parties, I have not been presented with any compelling evidence that would suggest highway safety would be compromised as a result of the proposal. Consequently, based on the evidence before me, I have no reason to disagree with the previous decision on this site in relation to highway safety.
9. In relation to cycle storage, I am satisfied that the site would be large enough to adequately provide sufficient storage for the development proposed. Moreover, although walking routes are not prevalent close to the appeal site, the road network is typical for a rural location. Consequently, I have no reason

to consider that the surrounding roads would create a hostile environment for pedestrians.

10. For the reasons identified above, I conclude that the proposal would not harm highway safety. Accordingly, it would comply with Policy MT1 of the CS and Policy LG8 of the Leintwardine Neighbourhood Development Plan, both of which require development proposals to provide safe access on to the road network.

Planning Balance

11. The Council accept that they cannot provide a 5-year supply of deliverable housing sites. Consequently, paragraph 11 of the National Planning Policy Framework (the Framework) is engaged. This is the 'tilted balance' which confirms that where the planning policies which are most important for determining proposals are out of date, planning permission should be granted unless any adverse impacts of the proposal significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
12. In terms of benefits, the proposal would help support a local business by reducing journey times to and from work. It would also result in a small but valuable addition to the local housing stock. In addition, the proposal would also provide a new dwelling for self-build purposes.
13. The Council has a duty to provide plots for self-build housing under the Self Build and Custom Housing Act 2015 (the 2015 Act). This matter is clarified in both the Framework and the Planning Practice Guidance (PPG) where it is stated that *relevant authorities must give suitable development permission to enough suitable serviced plots of land to meet the demand for self-build and custom housebuilding in their area*.
14. Neither the PPG or the Framework provide an express definition of what constitutes self-build and custom housebuilding. However, the PPG does state that *in considering whether a home is a self-build or custom build home, relevant authorities must be satisfied that the initial owner of the home will have primary input into its final design and layout*. The appellant is on the self-build and custom housebuilding register. In addition, the proposal has been accompanied by a Unilateral Undertaking (UU) to confirm that the proposal will be carried out in the manner proposed. Consequently, based on the evidence before me, I have no reason to consider that the proposal would not comply with the requirements of the 2015 Act.
15. Evidence has been provided by the Council to suggest that they are meeting the demand for this type of development. However, much of this relates to individual plots that could be suitable for self-build purposes rather than specific self-build proposals. I do not have the full details of the cases that the Council refer to. Nevertheless, in light of the guidance set out within the PPG, despite the number of permissions that have been granted by the Council, I cannot be certain that these permissions would help to meet the demand for self-build and custom housing. Accordingly, in the absence of compelling evidence on this point, I only give limited weight to the permissions that the Council have drawn my attention to.
16. As identified above, a UU has been submitted to confirm the self-build credentials of the proposal and I am satisfied that the provisions of the UU are

necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind. I am therefore satisfied that the specific type of development would be suitably secured. Accordingly, the self-build aspect of the proposal would be a benefit of the scheme, and together with the other benefits identified above, cumulatively, I give them moderate weight in my assessment of the appeal.

17. In terms of adverse impacts, I have identified a conflict with the locational requirements of the CS. However, due to the housing supply position of the Council, I give this conflict reduced weight. It is also of relevance that the proposal would be located amongst a cluster of other buildings and it would also replace an existing structure. The proposal would therefore not result in an isolated home in the open countryside. The Council have also confirmed that the design of the proposal would be suitable for the setting of the rural area, taking into account the context of the site. Accordingly, I only give moderate weight to the locational conflict with the CS.
18. In light of these findings, when applying the tilted balance as required by the Framework, I am satisfied that the adverse impacts of the proposal would not significantly and demonstrably outweigh the benefits. Accordingly, for the purposes of the Framework, I am satisfied that the proposal would constitute sustainable development.

Conditions

19. In light of my findings set out above, conditions are necessary in the interests of clarity and precision to set out the time limit for commencing development as well as the approved drawing numbers. Condition 3 is necessary in the interests of highway safety, and conditions 4 and 5 are necessary to ensure that the development is suitably drained. Finally, conditions 6, 7 and 8 are necessary due to the ecological sensitivities of the site.

Conclusion

20. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that decisions should be made in accordance with the development plan unless material considerations indicate otherwise.
21. The benefits of the proposal are tangible, and cumulatively, attract moderate weight. Whilst I have identified a conflict with the locational requirements of the CS, due to the Council's housing supply position, this conflict also only attracts moderate weight. Consequently, I am satisfied that the adverse impacts of the proposal would not significantly and demonstrably outweigh the benefits.
22. The requirements of the Framework are a material consideration of significant weight. Therefore, in accordance with Section 38(6), I am satisfied that material considerations indicate a decision other than in accordance with the development plan. Accordingly, the appeal should succeed and planning permission should be granted.

Martin Chandler

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development shall be implemented within three years of the date of this permission.
- 2) The development shall be carried out strictly in accordance with the approved plans (drawing nos.1419/5/2 and 1525/5) except where otherwise stipulated by conditions attached to this permission.
- 3) The construction of the vehicular access shall be carried out in accordance with a specification to be submitted to an approved in writing by the local planning authority, at a gradient not steeper than 1 in 12.
- 4) All foul water shall discharge through a connection to a new private foul water treatment system with final outfall to suitable soakaway drainage field on land under the applicant control, unless otherwise agreed in writing by the Local Planning Authority.
- 5) All surface water shall discharge to appropriate SuDS or soakaway system; with final outfall to suitable soakaway drainage field on land under the applicant control, unless otherwise agreed in writing by the Local Planning Authority.
- 6) The relevant working methods and biodiversity net gain as recommended in the Ecological Appraisal prepared by Churton Ecology, dated 15/10/2019 shall be implemented and hereafter maintained in full as stated unless otherwise approved in writing by the local planning authority. An appropriately qualified and experienced ecological clerk of works should be appointed (or consultant engaged in that capacity) to oversee the ecological mitigation work.
- 7) No external lighting or radiated illumination should illuminate any of the adjacent habitats, biodiversity enhancements, or boundary features due to the presence of protected species in the locally area and to protect local dark skies. All lighting on the development should support the Dark Skies initiative (Habitat Regulations, NPPF, NERC Act, Core Strategy Polices, DEFRA/NPPF Guidance 2018 (2019)).
- 8) The relevant working methods and biodiversity net gain as recommended in the Ecological Appraisal prepared by Churton Ecology, dated 15/10/2019 shall be implemented and hereafter maintained in full as stated unless otherwise approved in writing by the local planning authority.

An appropriately qualified and experienced ecological clerk of works shall be appointed (or consultant engaged in that capacity) to oversee the ecological mitigation work.