
Appeal Decisions

Site visit made on 12 January 2021

by J Williamson BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 March 2021

Appeal A Ref: APP/K3415/3261115

**Land North of 176 Birmingham Road, Shenstone Woodend, Lichfield
WS14 0NX**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr A Kirby, Shenstone Property Limited, against the decision of Lichfield District Council.
 - The application Ref 20/00194/OUT, dated 07 February 2020, was refused by notice dated 28 May 2020.
 - The development proposed is described as: Erection of a single storey detached dwelling with associated works (outline: access) (re-submission: 19/00273/OUT).
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Appeal B Ref: APP/K3415/3261119

**Land South of 176 Birmingham Road, Shenstone Woodend, Lichfield
WS14 0NX**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr A Kirby, Shenstone Property Limited, against the decision of Lichfield District Council.
 - The application Ref 20/00195/OUT, dated 07 February 2020, was refused by notice dated 28 May 2020.
 - The development proposed is described as: Erection of a single detached dwelling with associated works (Outline: access & layout) (Re-Submission 19/00274/OUT).
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Decisions

Appeal A

1. The appeal is allowed, and outline planning permission is granted for erection of a single storey detached dwelling with associated works (outline: access), at Land North of 176 Birmingham Road, Shenstone Woodend, Lichfield WS14 0NX, subject to the attached Schedule of Conditions.

Appeal B

2. The appeal is allowed, and outline planning permission is granted for erection of a single detached dwelling with associated works (outline: access and layout), at Land South of 176 Birmingham Road, Shenstone Woodend, Lichfield WS14 0NX, subject to the attached Schedule of Conditions.

Procedural Matters

3. I note in the Council's documentation relating to Appeal B the description of the proposal refers to a single storey dwelling. However, the description of proposed development on the application form for this proposal is single dwelling. As I have no evidence before me that the parties agreed to a change of description, I have made my decision based on the description of proposed development given by the appellant on the planning application form.
4. I have removed the phrase in the description of each proposal that refers to it being a re-submission of a previous application, as the phrase does not describe development.
5. Both appeals seek outline planning permission. In the case of Appeal A, access is applied for; and in the case of Appeal B, access and layout are applied for. All other matters are reserved.
6. The parties agree that, with regard to local and national Green Belt policies, both proposals meet the exception of sub paragraph 145 (e) of the National Planning Policy Framework (the Framework), ie limited infilling within a village. I agree that the respective sites of both appeals read as part of the village of Shenstone Woodend, that each proposal represents infilling and that in both instances the infilling would be limited. Consequently, the proposals do not constitute inappropriate development in the Green Belt. As such, they accord with Policy NR2 of the Lichfield District Local Plan Strategy (2015), (LP), and national Green Belt policies outlined in the Framework.

Main Issues

7. Taking the above into account, the main issues in respect of both appeals are the same, ie whether the site locations are suitable for residential development having regard to relevant local and national planning policies and the site's proximity to services and facilities.

Reasons

Local and national policies

8. Core Policy 1(CP1) of the LP, seeks to direct growth to the most accessible and sustainable locations in accordance with the settlement hierarchy outlined in the LP. Shenstone Woodend is not identified as one of the locations to which future development will be directed.
9. Within the settlement hierarchy, Shenstone Woodend is a 'smaller village' located within an 'other rural settlement'. Policy CP1 states that 'smaller villages' will accommodate housing to meet local needs, mainly within identified village boundaries, unless supported as a rural exception site. No evidence has been submitted by the appellant to demonstrate that either of the proposed dwellings would meet a local need and the appeal sites are not designated as rural exception sites. However, the Council has accepted that the sites read as being within the village settlement.
10. Policy CP1 also proposes that the allocation of sites for new rural housing will be considered through the Local Plan Allocations Document (LPAD) or through a community led plan where it is in conformity with the LP. The appeal sites are not allocated sites in the LPAD; nor have the sites been allocated for housing in

a relevant community led plan, ie the Little Aston Neighbourhood Plan, (2016), (NP). However, the NP, which was adopted following the adoption of the LP and therefore has been deemed to be in conformity with it, includes a policy that allows for residential infill development, Policy HSG1, and both proposals accord with this policy. Moreover, the NP confirms (paragraph 6.3) that given much of the NP area lies within the Green Belt, new housing in the NP area will predominantly come through infill development.

11. Policy CP1 states that limited infill development will be allowed in 'Green Belt villages', with appropriate infill boundaries to be determined through consultation in preparing the LPAD. Shenstone Woodend is a village within the Green Belt. For various reasons, infill boundaries in the Green Belt were not identified as part of the LPAD. Consequently, it is not possible for any proposal to satisfy this aspect of the policy. However, as noted above, the Council considers the proposals accord with sub paragraph 145 (e) of the Framework, and therefore accepts that they constitute infill development, all-be-it within the context of Green Belt policies.
12. Core Policy 6 (CP6) of the LP identifies that the delivery of housing development across the district will focus on key urban and rural settlements (reiterating the strategy of Policy CP1). Shenstone Woodend is not identified as one of the locations to which future housing development will be directed. The policy also allows for certain types of residential development in the remaining rural areas, which includes Shenstone Woodend, two of which are:
 - infill development within defined village settlement boundaries (set out in the LPAD), and
 - small scale development supported by local communities, identified through the LPAD or community led plans.
13. As noted, infill development boundaries in the Green Belt do not feature in the LPDA. Consequently, it is not possible for any proposal to satisfy this aspect of the policy.
14. Policy Rural 1 (PR1) states that 'smaller villages' will only deliver housing to accommodate local needs. Around 5% of the District's housing will be met within the village boundaries of these 'smaller villages', through the conversion of existing buildings and to meet identified local needs on rural exception sites. The proposals do not relate to conversion of existing buildings; and, as noted, neither site is identified as a rural exception site and no evidence has been submitted by the appellant to demonstrate either proposal meets an identified local need.
15. Policy Rural 2 (PR2) states that support will be given to rural settlements wishing to provide small scale development to meet local needs, where the need for this can be clearly and robustly evidenced by the local community and where this need accords with policies in the LP. Again, no evidence has been provided to demonstrate that the proposal meets a local need. However, the process of producing the NP will have taken account of the housing needs of the NP area and, in accordance with the LP, included policies to meet such need. Infill and backland development, in accordance with Policy HSG1 of the NP, is the primary means by which the local community has sought to provide residential development in the area, regardless of whether or not a site is located within a designated settlement boundary or the Green Belt.

16. The Framework outlines the importance of neighbourhood plans in shaping, directing, and delivering sustainable development; such plans must be in general conformity with strategic policies in the LP and not undermine them. I consider that Policy HSG1 of the NP is in general conformity with the strategic policies CP1, CP6, PR1 and PR2 of the LP and does not undermine them.
17. Paragraph 78 of the Framework advises that, to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Villages should be provided with opportunities to grow and thrive, especially where this will support local services. Additionally, it is acknowledged that development in one small settlement may support services in a nearby village. Although there are limited services and facilities within Shenstone Woodend and Little Aston, future occupiers of each of the proposed dwellings would make a small contribution to maintaining the services and facilities there are. Additionally, as future occupiers of the proposed dwellings are likely to make use of the services and facilities within the surrounding, neighbouring rural settlements, such facilities and services will also be supported.
18. Paragraph 59 of the Framework confirms the Government's objective to boost the supply of homes, and Paragraph 68 notes that small and medium sized sites can make an important contribution to meeting the housing requirement of an area, advising that development of windfall sites should be supported. The 2 sites are both small windfall sites and each would make a small contribution to boosting the supply of homes.

Proximity to services and facilities

19. The Council confirmed in its statement that the basis of the refusals relates to the proximity of the sites to services and facilities. The Council also referenced an appeal related to a site not far from the sites of concern here, Ref APP/K3415/W/18/3217357, in which the Inspector concluded that, with regard to access to services and facilities, the site for the dwelling that was proposed would be a suitable location. In reaching this conclusion the Inspector concluded that the proposal would not be contrary to policies CP1, CP3 and CP6 or Strategic Priority 1 of the LP.
20. Paragraph 103 of the Framework identifies that opportunities to maximise sustainable transport solutions will vary between urban and rural areas; the Framework advises that this should be taken into consideration in decision-making. Paragraph 108 of the Framework advises that new development ensures that appropriate opportunities to promote sustainable transport modes can be taken up, bearing in mind the type of development and its location.
21. I acknowledge that there are a very few facilities and services within the village of Shenton Woodend to meet the day-to-day needs of future occupiers of each of the proposed dwellings. However, there is a train station around a 10 min walk from the sites, which is on the Cross-City Line, providing trains to Shenstone and Lichfield to the north and Sutton Coldfield, and on to Birmingham, to the south. There are also bus stops within 100m of the sites from where a bus can also be taken to Shenstone, Lichfield and Sutton Coldfield. Within less than 2 miles of the sites in both directions a full range of shops, services and facilities and employment opportunities could be accessed to meet the day-to-day needs of future occupiers of the proposed dwellings.

22. I accept that it is likely future occupiers of the proposed dwellings would have private motor cars. However, public transport options would be readily accessible within walking distance, via suitable footpaths, and shops less than around 2 miles away would be accessible by bicycle from the sites.
23. Accepting that opportunities to maximise sustainable transport solutions will vary between urban and rural areas and given the locations of the 2 sites and the type of developments proposed, I consider that appropriate opportunities to promote sustainable transport modes can be taken up. As such, I conclude that, with regard to access to services and facilities, the locations of the sites for both proposals would be suitable for residential development.

Summary and interim conclusion

24. I acknowledge that no specific evidence has been submitted by the appellant with either proposal to demonstrate that there is a local need for the proposals. As such, the proposals do not accord with policies CP1, PR1 or PR2 of the LP with regard to this aspect. However, it seems to me that the proposals do accord with elements of relevant development plan policies, do not threaten the aims and objectives of key policies, and would assist in delivering the goals of key policies. As such, to a degree, relevant development plan policies pull in different directions. Additionally, the proposals are supported by various policies in the Framework.
25. Thus, it is accepted that the proposals accord with local and national Green Belt policies. As infill boundaries were not identified in the LPAD the proposals cannot satisfy this aspect of LP policies. However, the Council accepts that the proposals represent infill development within the context of Green Belt policies. The proposals also accord with NP policy HSG1; furthermore, the NP identified that additional housing in the area will predominantly come through infill development. LP Policy PR1 states that 5% of the District's housing requirement will be met in smaller villages. Hence, the NP and LP both acknowledge that there are local needs. Policy PR2 identifies that smaller rural communities need to be able to adapt to accommodate local needs and become more locally sustainable, without compromising the character of the area. The Council accept that the proposals can be accommodated within their sites without compromising the character of the area. I have concluded that the locations of each site would be suitable in respect of access to services and facilities. As such, I consider that the strategic aim of LP Policy CP1 to direct growth to the most accessible and sustainable locations would not be undermined.
26. Bearing all the above factors in mind, I conclude that the site locations of both proposals are suitable for residential development, having regard to relevant local and national planning policies and the site's proximity to services and facilities. I consider that the proposals accord with the development plan as a whole. Additionally, the proposals are supported by various policies in the Framework, in particular paragraphs 59, 68, 78, 103, 108 and 145 (e).
27. I note the appeals the Council has drawn to my attention. However, although I do not have the full details, neither seem to be directly comparable to the cases before me. Nevertheless, I have had due regard to any general points raised in these appeals that are of relevance to the appeals at hand. Notwithstanding this, each appeal must be determined on its own merits.

Other Matters

28. In addition to the matters dealt with above, concerns have been raised in respect of character and appearance, living conditions of occupiers of existing properties, protection of wildlife, loss of boundary treatment, loss of front hedge, flood risk and highway safety.
29. Scale and appearance are details that will be addressed as part of reserved matters applications; like the Council, I am satisfied that dwellings of a scale and appearance in keeping with the character and appearance of the area can be achieved within the sites. I am also satisfied that the proposed developments can be realised whilst retaining the living conditions of occupiers of existing neighbouring properties. To assist with this, a condition has been attached related to boundary treatments. Conditions are also attached, in line with the submitted Bat and Bird Surveys, to protect and enhance wildlife. Details of landscaping will be required as part of reserved matters applications to ensure adequate landscaping of the sites and mitigate against any loss of trees, hedges, or shrubs. Details of drainage systems are also secured by conditions to, among other things, manage flood risk. The details submitted demonstrate that access to the sites and parking and turning areas can be provided within the sites. I, like the Council and the Local Highway Authority, am satisfied that the proposals do not raise any highway safety issues.

Conditions

30. Suggested conditions have been considered in light of advice contained in the Planning Practice Guidance and the tests within the Framework. I have amended or amalgamated those suggested for clarity, precision or to avoid duplication, taking account of the guidance and policy referred to.
31. I have attached conditions related to the timescale for reserved matters applications and commencement of development to ensure development is carried out in a timely manner. A condition requiring approved boundary details to be retained has been attached to protect the living conditions of occupiers of neighbouring properties. A landscaping condition is attached to protect the character and appearance of the area. The approved plans are specified in a condition for the avoidance of doubt. In the case of Appeal A, a condition restricting the approved development to being single-storey is attached, reflecting the description of proposed development, and a maximum of 3 bedrooms is specified to assist in providing a suitable housing mix. I have not attached such a condition to Appeal B as the proposal was not for a single storey unit. To protect the appearance of the area and the living conditions of occupiers of neighbouring properties, I have attached a condition requiring details of finished floor levels. A condition related to drainage systems is attached in the interest of public health and to minimise flood risk. A condition requiring suitable cycle parking is attached to promote the use of more sustainable modes of transport. A condition related to access, parking and turning areas is attached in the interest of highway safety. Conditions are attached to ensure wildlife is protected and enhanced. A condition restricting the hours of construction and deliveries to the site is attached to protect the living conditions of occupiers of neighbouring properties.

Conclusions

Appeal A

32. For the reasons outlined above, I conclude that the appeal is allowed.

Appeal B

33. For the reasons outlined above, I conclude that the appeal is allowed.

J Williamson

INSPECTOR

Schedule of Conditions – Appeal A

- 1) An application for the approval of the 'reserved matters' shall be made within one year from the date of this permission and the development shall be begun either before the expiration of two years from the date of this permission, or before the expiration of one year from the date of approval of the last of the reserved matters to be approved, whichever is the later.
- 2) No development shall commence until plans and particulars of the 'reserved matters' referred to in condition 1 relating to the appearance of the dwelling, including materials for external finishes, landscaping of the site (hard and soft) and boundary treatments, layout of the site and scale of the building have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 3) The boundary treatments approved under condition 2 shall be provided prior to the approved dwelling being first occupied and retained thereafter for the lifetime of the development.
- 4) The landscaping scheme submitted in pursuance of condition 2 shall include a timescale for implementation. Any tree, hedge or shrub planted, or retained, as part of the approved landscape and planting scheme which dies or is lost through any cause during a period of 5 years from the date of first planting, shall be replaced in the next planting season with others of a similar size and species.
- 5) The development hereby permitted shall be carried out in accordance with the following approved plans: 5550.88, 4854/01 B, 4854.98, 19449.01.A, 19449.03, 19449.03.2, 19449.03.3, 19449.03.4, 15-027-18-05c.
- 6) The dwelling hereby approved shall be single-storey only and shall have no more than 3 bedrooms.
- 7) No development shall commence until details of the existing and proposed ground levels of the site, and proposed finished floor levels, have been submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved details.
- 8) No development shall commence until details of surface and foul water drainage systems for the development have been submitted to and approved in writing by the Local Planning Authority. The approved drainage systems shall be provided before the approved dwelling is first occupied and retained and maintained for the lifetime of the development.
- 9) Before the dwelling hereby approved is first occupied, details of a covered, secure cycle store shall be submitted to and approved in writing by the Local Planning Authority. The approved cycle store shall be provided prior to the approved dwelling being first occupied and retained thereafter for the lifetime of the development.
- 10) Before the dwelling hereby approved is first occupied, the access, parking and turning areas shall be provided in accordance with the approved plans. Additionally, prior to the dwelling hereby approved being first occupied, the

existing accesses within the limits of the public highway shall be reconstructed in accordance with details to be submitted to and approved in writing by the Local Planning Authority. The access, parking and turning areas shall thereafter be retained for the lifetime of the development without impediment to their designated uses.

- 11) The development hereby approved shall be carried out in strict accordance with the recommendations and methods of working detailed within the submitted 'Bat and Bird Surveys', produced by S Christopher Smith, dated 13th January 2020. In addition, prior to any part of the garage being demolished, a check should be undertaken to ensure there are no birds nesting in/on any part of the garage. Should any nests be found, advice should be sought from an appropriately qualified person, to include recommendations of how to proceed with demolition. Demolition shall be completed in accordance with the recommendations provided.
- 12) Before the development hereby approved is first occupied, the mitigation measures detailed within the submitted 'Bat and Bird Surveys', produced by S. Christopher Smith, dated 13th January 2020, shall be fully implemented. The mitigation measures shall thereafter be retained for the lifetime of the development.
- 13) During the period of demolition and construction, no works, or deliveries to the site, shall take place outside the hours of 07:30–19:00 Monday to Friday, 08:00–13.00 on Saturdays. No work, or deliveries to the site, shall take place on Sundays, Bank and Public holidays (other than in an emergency).

<<<<End of Schedule>>>>

Schedule of Conditions – Appeal B

- 1) An application for the approval of the 'reserved matters' shall be made within one year from the date of this permission and the development shall be begun either before the expiration of two years from the date of this permission, or before the expiration of one year from the date of approval of the last of the reserved matters to be approved, whichever is the later.
- 2) No development shall commence until plans and particulars of the 'reserved matters' referred to in condition 1 relating to the appearance of the dwelling, including materials for external finishes, landscaping of the site (hard and soft) and boundary treatments, layout of the site and scale of the building have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 3) The boundary treatments approved under condition 2 shall be provided prior to the approved dwelling being first occupied and retained thereafter for the lifetime of the development.
- 4) The landscaping scheme submitted in pursuance of condition 2 shall include a timescale for implementation. Any tree, hedge or shrub planted, or retained, as part of the approved landscape and planting scheme which dies or is lost through any cause during a period of 5 years from the date of first planting, shall be replaced in the next planting season with others of a similar size and species.
- 5) The development hereby permitted shall be carried out in accordance with the following approved plans: 5550.88, 4854.99, 4854 02 B, 19449.01 A, 19449.03, 19449.03.2, 19449.03.3, 19449.03.4, 15.027.18.05c.
- 6) No development shall commence until details of the existing and proposed ground levels of the site, and proposed finished floor levels, have been submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved details.
- 7) No development shall commence until details of surface and foul water drainage systems for the development have been submitted to and approved in writing by the Local Planning Authority. The approved drainage systems shall be provided before the approved dwelling is first occupied and retained and maintained for the lifetime of the development.
- 8) Before the dwelling hereby approved is first occupied, details of a covered, secure cycle store shall be submitted to and approved in writing by the Local Planning Authority. The approved cycle store shall be provided prior to the approved dwelling being first occupied and retained thereafter for the lifetime of the development.
- 9) Before the dwelling hereby approved is first occupied, the access, parking and turning areas shall be provided in accordance with the approved plans. Additionally, prior to the dwelling hereby approved being first occupied, the existing accesses within the limits of the public highway shall be reconstructed in accordance with details to be submitted to and approved in writing by the Local Planning Authority. The access, parking and turning

areas shall thereafter be retained for the lifetime of the development without impediment to their designated uses.

- 10) The development hereby approved shall be carried out in strict accordance with the recommendations and methods of working detailed within the submitted 'Bat and Bird Surveys', produced by S Christopher Smith, dated 13th January 2020. In addition, prior to any part of the garage being demolished, a check should be undertaken to ensure there are no birds nesting in/on any part of the garage. Should any nests be found, advice should be sought from an appropriately qualified person, to include recommendations of how to proceed with demolition. Demolition shall be completed in accordance with the recommendations provided.
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- 12) During the period of demolition and construction, no works, or deliveries to the site, shall take place outside the hours of 07:30–19:00 Monday to Friday, 08:00–13.00 on Saturdays. No work, or deliveries to the site, shall take place on Sundays, Bank and Public holidays (other than in an emergency).

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