



Appeal Decision

Site visit made on 25 March 2024

by K Allen MEng (Hons) MArch PGCert ARB

an Inspector appointed by the Secretary of State

Decision date: 12 April 2024

Appeal Ref: APP/J3720/W/23/3330133

113 Crooks Lane, Studley, Warwickshire B80 7QY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Shaun Hussey of Kingswood Properties [West Midlands] Ltd. against the decision of Stratford-on-Avon District Council.
 - The application Ref is 23/00700/FUL.
 - The development proposed is the demolition of existing dwelling and erection of 10no. bungalows including associated access and landscaping.
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Decision

1. The appeal is dismissed.

Background and Main Issues

2. Following the submission of additional information and a subsequent application¹ at the appeal site, the Council no longer has concerns relating to highway safety including access and egress from the appeal site.
3. As such the main issues are:
 - the effect of the proposal on the character and appearance of the area;
 - whether the proposal would provide adequate living conditions for future residents with particular regard to functional outdoor space;
 - the effect of the proposal on biodiversity;
 - whether the development would be acceptable with respect to surface water drainage and flood risk; and
 - the effect of the proposal on the provision of public open space.

Reasons

Character and appearance

4. The area is suburban, predominantly characterised by two-storey houses of varied scales and design set back from the highway within generous plots with verdant front and rear gardens. Within the area, there are a variety of road types and scales, including smaller cul-de-sac arrangements. The appeal site comprises an area of open grassland associated with No 113 Crooks Lane, currently in use as a paddock, bound on all sides by residential development.

¹ Application Reference: 23/03269/FUL

5. The proposal would infill the appeal site and create a new cul-de-sac that would be in keeping with the existing pattern of development within the area. Whilst the majority of surrounding properties are two-storey in height there are a small number of bungalows which complement the variety seen within the village. As such, due to the choice of materials and use of vernacular detailing such as bay windows and rendered gables, the dwellings themselves would not be inconsistent with the surrounding prevailing character.
6. Notwithstanding the above, the proposal would introduce 10 bungalows which would fill the majority of the site with built development. The density of development would be similar to some of the surrounding streets and the proposal would achieve sufficient separation distances. However, due to the number of bungalows proposed and their single storey designs, the external space surrounding the dwellings would be less than average within the area, reducing the availability of space for landscaping. As such, when viewed against the surrounding generous, verdant plots the proposal would have a cramped appearance that would appear incongruous.
7. Consequently, I conclude that overall, the proposal would harm the character and appearance of the area. It would conflict with Policies CS.9 and CS.20 of the Stratford-on-Avon Core Strategy 2011-2031 (July 2016) (CS) where collectively they require development to reflect the character and distinctiveness of the locality, be of high-quality design and ensure that density and layout are appropriate to the site and locality.

Living conditions

8. Each bungalow would be provided with a front and rear garden. The overall plot sizes would be smaller than that typically seen in the area and a proportion of the dwellings would not meet the minimum rear garden length guidance highlighted within Part D of the Development Requirements SPD (July 2020) (SPD). However, the parties agree that the rear gardens would meet the minimum overall area identified as acceptable.
9. Nevertheless, the SPD makes it clear that the amount of daylight and degree of overshadowing should be considered alongside the overall area of a garden. It advises that larger gardens may be required where excessive shading renders significant areas of the garden unusable and where significant mature trees are to be retained within the garden space. There are numerous boundary trees as well as some scattered trees within the site which the appellant indicates as being retained.
10. A number of the retained trees along the boundary are substantial in height and would be in a southerly position compared to several of the rear gardens, including plots 3-10. Due to the height of the retained trees and their proximity to the properties, the resultant overshadowing would be substantial and would unacceptably reduce the functional outside space available to the future residents. In addition, several smaller trees would be retained within the rear gardens themselves, which have not been indicated on the proposed site plan, further reducing the outside space available.
11. As such, I conclude that the proposal would not provide adequate living conditions for future residents with particular regard to functional outdoor space. The proposal would conflict with Policy CS.9 of the CS where it requires development to provide a good standard of space and amenity for occupiers.

12. In addition, the proposal would fail to accord with Part D of the SPD where it advises that adequate provision of useable outdoor private space is an important component of good quality design.

Biodiversity

13. The appellant has submitted a Preliminary Ecological Appraisal, a Tree Report and a Biodiversity Impact Assessment (BIA). The BIA indicates that the proposal would result in a loss of 0.81 habitat biodiversity units. CS Policy CS.6 states that negative impacts on biodiversity should be avoided, and if this is not possible mitigated. Where mitigation cannot be provided on site, contributions, in line with CS Policy CS.27, will be sought to offset the loss by contributing to appropriate biodiversity projects elsewhere in the area.
14. The appellant suggests that mitigation could be secured via condition and has suggested a condition used by the Council previously on an unrelated scheme. However, I am unaware of the details surrounding this scheme or why the Council deemed the condition to be sufficient in that instance.
15. Given the limited public space surrounding the proposed dwellings, I am not satisfied that adequate mitigation would be possible on site and as such, off-site mitigation would be required. While it may be appropriate to secure on-site mitigation via condition, I am not satisfied that a condition for off-site mitigation, would be precise or enforceable or that mitigation would be possible within the local area. Therefore, in the absence of a planning obligation, I am unable to determine if the biodiversity net loss would be sufficiently mitigated.
16. Hence, I conclude that the proposal would harm biodiversity. It would conflict with Policies CS.6 and CS.27 as described above. There would also be conflict with Part N of the SPD where it requires biodiversity harm to be mitigated in line with the mitigation hierarchy.

Surface water drainage and flood risk

17. The appeal site is located within Flood Zone 1 and is not identified within Footnote 59 of the National Planning Policy Framework (Framework) as requiring a Flood Risk Assessment (FRA).
18. Whilst I note the concerns of the lead local flood authority, the submitted Drainage Statement and various accompanying drawings and calculations adequately assess the potential flood risks of the site and provide a sufficiently detailed surface water drainage strategy and management/maintenance plan for this stage of the design. I am satisfied that the approach to flooding and drainage is viable and in line with the objectives of the Framework. Moreover, further details could be secured via condition.
19. Consequently, I conclude that the proposal would be acceptable with respect to surface water drainage and flood risk. It would accord with Policy CS.4 of the CS where it requires development to make sustainable use of water resources, minimise water consumption, protect and improve water quality, and minimise flood risk from all sources. The proposal would also accord with paragraph 173 Framework which requires development to not increase flood risk elsewhere and where appropriate be supported by a site-specific FRA.

Public open space

20. CS Policy CS.25 recognises that new housing development can result in extra pressure being placed on existing public open space. The policy seeks to ensure that an increase in or enhancement of open space and recreation facilities to meet the needs of its residents are provided where justified by the scale of the new development. CS Policy CS.27 indicates that infrastructure such as open space provision will be secured via planning obligations.
21. Part L of the SPD limits the requirement to provide an increase or enhancement to open space to developments for over 10 or more dwellings. The proposal would provide 10 new dwellings, however due to the demolition of No 113, the net increase would be 9. Whilst I note that affordable housing provision is determined by the gross number of proposed dwellings and not the net increase. The SPD sets out that the required open space provision is calculated based on resident numbers.
22. The appeal site currently comprises a 3-bed house with the open space provision for the existing residents already taken into account within the area. Notwithstanding the limited functional outdoor space provided to some of the plots, I am satisfied that in this case the proposal would be below the threshold where public open space provision, in line with CS Policy CS.25 applies.
23. Accordingly, I conclude that the proposal would not have a harmful impact on the provision of public open space. In this respect, I do not find conflict with Policies CS.25 and CS.27 of the CS nor Part L of the SPD.

Other Matters

24. The proposal would provide nine additional dwellings in an accessible location which would contribute to the variety of houses available in the area. Whilst the Framework seeks to boost the supply of housing, the social and economic benefits of the proposal would not outweigh the harms identified above.

Conclusion

25. For the reasons given above, I conclude that the proposal conflicts with the development plan as a whole and there are no material considerations, including the Framework that would outweigh that conflict. Therefore, the appeal is dismissed.

K Allen

INSPECTOR