



Appeal Decision

Hearing held on 16 October 2024

Site visits made on 15 and 16 October 2024

by M Bale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 October 2024

Appeal Ref: APP/C3240/W/24/3344946

Land to the East of The Glebelands and South of Park Lane, High Ercall, Shropshire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mr James Scott, V300 Project Services Limited against the decision of Telford and Wrekin Council.
 - The application Ref is TWC/2023/0583.
 - The development proposed is 5 self-build houses.
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Decision

1. The appeal is dismissed.

Applications for costs

2. Applications for costs were made by the appellant against Telford and Wrekin Council (the Council) and by the Council against the appellant. These applications will be the subject of separate decisions.

Procedural matters

3. The appeal relates to an application for outline planning permission. All matters are reserved for subsequent consideration. Therefore, I have treated the supplied drawings as illustrative of one way that the site could be developed. There was some confusion as to whether permission was being sought for 5, or 'up to' 5 dwellings. At the Hearing, the appellant confirmed that the proposal was for 5, as set out on the application form.
4. Just before the Hearing, it became apparent that the Council and appellant both had incorrect versions of the Ercall Magna Neighbourhood Development Plan (NDP). There are some significant differences between the correct made version of the plan, and those versions provided by the parties with the initial appeal documents.
5. The Council was able to confirm at the Hearing that its position on the appeal was unaffected if the correct NDP policies were considered but the appellant had not had time to fully review the made plan. I, therefore, provided additional time for the appellant to consider the NDP and provide written comments as to how their position was affected. The Hearing was then closed, in writing, on 24 October 2024.
6. The appellant is critical of the Council's reliance on the correct NDP policies to support its previous reasons for refusal. However, whether or not the Council's

balance of the various issues and, in particular, those relating to the first reason for refusal would have been different if its officers had the correct policies in mind, I must determine the appeal on the basis of the development plan and that includes the correct version of the made NDP.

Main Issues

7. The main issues are:

- (a) The effect of the development on the significance heritage assets, including the character and appearance of the High Ercall Conservation Area; the setting of Vicarage Cottage (Grade II listed); Stack Stones, The Grove and The Elms (non-designated); and potential archaeological interest.
- (b) The effect on biodiversity.
- (c) The effect on flood risk, with particular regard to surface water drainage.
- (d) The effect on highway safety.
- (e) Whether there are any benefits of the proposal that might outweigh any harm to heritage assets, or any conflict with the development plan, with particular regard to the delivery of self-build and custom housing.

Reasons

Heritage assets

- 8. High Ercall is believed to have medieval origins and the Conservation Area (CA) derives its significance, at least in part, from its coverage of the area of early settlement and a collection of buildings dating back to the 17th Century. The buildings within the CA are generously spaced and relatively few in number. Each is a representation of the time in which it was built. This provides tangible evidence of the slow and piecemeal way that High Ercall developed before the more rapid 20th Century expansion that characterises the majority of the settlement outside the CA.
- 9. Centred along Shrewsbury Road, the arrangement of buildings has given the CA a spacious and informal appearance, largely free from modern intervention. Despite the presence of mature trees and some boundary walls, there are views out from the CA to surrounding agricultural land providing a strong connection to the countryside which informs a rural character. Thus, the historic core of the village can still be understood as distinct from more modern additions and in this way, the spacious appearance of the CA also contributes to its significance.
- 10. The appeal site is part of an undeveloped parcel of land, within the CA, behind dwellings fronting Shrewsbury Road. It is not publicly accessible. There is a road frontage to Park Lane from where views into the site are largely screened by a high hedge. The High Ercall Conservation Area Management Plan 2008 (CAMP) notes that the field to the northwest of The Old Rectory was identified as having some development capacity. The site is contiguous with this land, but at the Hearing, neither party was able to clarify whether the land referred to included the appeal site. In any case, there is no information within the

CAMP as to what form that development may take, so it does not establish the acceptability of this particular proposal.

11. Laying between the two, the site itself has as much affinity with the adjoining 20th Century development at The Glebelands as it does with the historic core of the CA. However, that is not to say that the site has no part to play in understanding and appreciating the significance of the CA or contributing to its character and appearance. While public views are limited, it is not experienced either within the site or from outside, as an entirely separate entity to the historic core.
12. Public views are also screened by mature trees, boundary walls, fences and hedges, although glimpses of the site are available through the accesses to Stack Stones, The Grove and the field gate access to the site itself. Thus, the absence of development on the site contributes significantly to the spacious, rural setting of Stack Stones, The Grove and general appearance of the conservation area. While some of the high volume 20th Century development is visible in these views, it appears set away from the older buildings in the CA when viewed from Shrewsbury Road.
13. The proposal is for 5 self-build dwellings. An indicative plot division shows how this may be accommodated on the site. It would be at a lower density to the 20th Century houses adjoining the site at The Glebelands, but appreciably higher than most of those in the CA, particularly in the immediate vicinity. Thus, while 5 houses would provide something of a transition in density from the older to newer areas, it would not preserve the density and spacious character and appearance of the CA itself.
14. Furthermore, the formation of an access of sufficient standard to support the traffic movements of 5 dwellings would likely introduce a suburban-style road and dwelling arrangement into the rural character of the CA. While, if removal is required, a roadside hedge could be reinstated, the opening would still increase views into the site. Rather than providing a spacious backdrop to the older houses this would, instead, create an uncharacteristic intrusion. Thus, the development would fail to preserve or enhance the character or appearance of the conservation area and, as accepted by the appellant, result in less than substantial harm to its significance.
15. As noted, the non-designated heritage assets of The Grove and Stack Stones adjoin the site. These houses are close to their rear boundaries with the appeal site. They were once a single house of some stature and the spacious setting provided by their own grounds, but also the site, contributes to their historic interest and significance. In eroding that setting, there would be harm to their significance. It may be possible to erect substantial extensions and outbuildings under permitted development rights. However, there is no reason to believe that this is likely to occur on such a scale that an understanding of their spacious settings would be lost. In any event, given the proximity of the dwellings to their rear boundaries, they would not affect the spacious setting to the rear, nor prevent that being undermined by the appeal scheme.
16. The setting of The Elms, on the opposite side of Park Lane would be largely unaffected. It already closely neighbours modern housing to its rear and, while new dwellings at the site may be visible alongside it, the separation provided by Park Lane means that its own spacious setting on Shrewsbury Road would not be significantly altered.

17. Vicarage Cottage is Grade II listed. It is a small building, with first floor accommodation set partly within the roof space. Like other dwellings within the CA, it is surrounded by its own grounds and in a spacious setting. While undeveloped land connected to the appeal site forms a rural backdrop to the building, the main tract of undeveloped countryside is to the rear and leading away from the appeal site. It does not appear to be possible to see between the site and Vicarage Cottage, nor are the sites closely related. If there was any visibility from the first-floor windows of Vicarage Cottage to any new buildings at the appeal site, these would be limited and within the context of an outlook that already contained a number of dwellings.
18. Therefore, I find that, if the site is within the setting of Vicarage Cottage, the proposal would preserve that setting and not harm the significance of the listed building. There would, therefore, be no conflict with Policy BE4 of the Telford & Wrekin Local Plan 2018 (LP), that seeks to protect listed buildings.
19. A study of Shropshire Villages revealed the potential for archaeological assets at the site, particularly from the Civil War period. The site is also believed to contain ridge and furrow landforms dating back to medieval times. In this context, there is a reasonable likelihood of archaeological remains being present at the site and development could cause harm to those.
20. The Council does not know the full archaeological potential of the site. However, the National Planning Policy Framework (the Framework) indicates that where a site on which development is proposed has the potential to include heritage assets with archaeological interest, developers should submit an appropriate desk-based assessment and, where necessary, a field evaluation.
21. There is, currently, no substantive evidence about the archaeological interest of the site as no detailed assessment has been undertaken. I understand that the appellant might not have felt able to justify the expense of further investigation when the Council was suggesting that the application would be refused for other reasons. However, I have no real understanding of the archaeological interest of the site to inform my decision. While a planning condition could secure investigation of the site prior to any other development, that approach could prevent any permitted scheme taking full account of any archaeological remains at the site that it may be prudent to preserve. Such would not, therefore, overcome or mitigate the potential harm.
22. With regard to the above, I find that the proposal would fail to preserve the character and appearance of the CA and cause less than substantial harm to its significance. There would also be harm to the significance of the non-designated Stack Stones and The Grove. There may be harm to archaeological assets. This results in conflict with those aims of LP Policies BE1, BE5 and BE8 that seek to ensure that development respects and responds positively to its context and enhances the quality of the built environment, preserves or enhances the character or appearance of conservation areas, does not harm the setting of buildings of local interest, and protects sites of archaeological importance.
23. The Framework sets out that the harm to the CA must be weighed against the public benefits of the proposal and the harm to the non-designated assets must be taken into account in reaching my decision. I shall return to this later.

Biodiversity

24. The site has been used for the grazing of horses, which I understand can have destructive grazing habits. It may also be possible to put it to various agricultural uses that may harm biodiversity. Nevertheless, the appellant's Preliminary Ecological Appraisal (PEA) identifies that the site currently has potential to include unimproved neutral grassland/lowland meadow priority habitat. It makes clear that further survey work is required to understand the effects on the potential priority habitat on the site itself, even though, with appropriate mitigation, no harm would result to a number of protected species, and there would be no harm to nearby protected sites.
25. I have considered whether conditions could be imposed to secure the necessary survey work. However, the PEA also explains that loss of this priority habitat should usually be resisted, so any presence on a site may inform the required approach to development, if it can be accommodated at all without habitat loss.
26. In the absence of the further survey work, I cannot be satisfied that the proposal would not harm biodiversity. It would, therefore, conflict with LP Policy NE1 that seeks to protect biodiversity assets, including resisting harm to priority habitat.

Flood Risk

27. At the Hearing, the Council confirmed that, while there were known capacity issues in the local sewerage infrastructure, the statutory undertaker had a responsibility to deal with any new foul flows generated. The application indicates that surface water will be disposed of via sustainable drainage systems, but there is scant information about what form that would take. I understand that a proposal for self-build housing will lead to a certain level of uncertainty in the final layout and individual plot developers would become responsible for the drainage of their own plots. However, there might be site-wide matters or constraints that influence the final plot divisions or development capacity of the site.
28. Thus, while some final details could be considered and secured via planning conditions, I find that there is insufficient information to be satisfied that the site can be adequately drained so as not to result in any increase in flood risk elsewhere. The proposal would, therefore, conflict with those aims of LP Policy ER12 that require development proposals to demonstrate how surface water would be managed through sustainable drainage systems appropriate to the hydrological setting of the site.

Highway safety

29. A wide footway along much of Park Lane narrows as it crosses the site frontage before terminating short of the junction with Shrewsbury Road. The boundary of The Grove at this corner means that visibility turning left into Park Lane from Shrewsbury Road is limited at a point where pedestrians could be walking in the road.
30. I was told at the Hearing that there is significant pedestrian traffic in the area as many people park at the village hall on Park Lane to walk to the primary school on the opposite side of Shrewsbury Road. These users will, therefore, include young children and those with pushchairs and the like. There is

potential for rear-end shunt accidents on Shrewsbury Road as turning traffic is forced to brake heavily to avoid pedestrians. Near-misses have been witnessed, although there is no indication that accidents have occurred.

31. As the footway terminates short of the junction and a pedestrian crossing point on Shrewsbury Road is on the other side of Park Lane, the desire line would lead to people crossing Park Lane close to the junction. Thus, the limited visibility from vehicles turning into Shrewsbury Road is a significant hazard.
32. However, while the Highway Authority have suggested that the pedestrian desire line is across the bell mouth of the junction, my own observations are that a more natural crossing point is slightly further away where the footpath terminates and where there is visually more space to the side of the carriageway on the opposite side of the road. Regular users, which would include the high volume school-related traffic and any residents, familiar with the hazard, seem to me to be more likely to cross as far away from the junction as possible.
33. Even if I am wrong, the proposal would not change the configuration of the Park Lane junction or the operation of the highway network as the site access itself would be sufficiently distanced from Shrewsbury Road to provide safe visibility. There would be an increase in traffic, but in the context of the large number of houses already served via this route and the village hall which serves not only as a community hub but a parking area for school parents, the increase would be small.
34. Thus, I find that the development would not make the existing situation any worse. This may still be far from ideal, especially as new pedestrian traffic from the development itself could not be properly accommodated on routes to the school and church. However, it would be commensurate with the site's context and significantly sized existing residential neighbourhood within which the site is located. There would, therefore, be no conflict with those aims of LP Policy C4 that seek to ensure safe and convenient access to new development.

Benefits

35. The supply of housing and associated benefits during and after construction are a public benefit. This proposal specifically seeks to provide self-build and custom housing (SBCH) within the meaning of the Self-build and Custom Housebuilding Act 2015 (as amended). The main parties agreed at the Hearing that there is currently a shortfall of 17 units when measured against the relevant monitoring period. If I were to accept that all the relevant units counted by the Council to date were SBCH units, which is far from certain, the appellant still indicates that in most monitoring periods, the Council has failed to deliver sufficient self-build units to meet the requirement. It is also shown that the current shortfall is greater than in most previous years.
36. Unlike most, if not all, other permissions relied upon in the Council's supply of SBCH, the main parties have agreed to the wording of a condition that they believe would secure the proposed dwellings as SBCH. Thus, if built, the proposal would be certain to contribute to the requirement, if I were to accept that the condition was enforceable. Given the statutory duty upon the Council to provide sufficient SBCH plots, the delivery of an additional 5 units would, therefore, be a significant benefit.

Other matters

37. The NDP designates the site as Local Green Space. However, while the Framework indicates that policies for managing development within a Local Green Space should be consistent with those for Green Belts, no party could draw my attention to any particular policy that seeks to manage development at this site. The NDP designation does not, therefore, appear to weigh against this proposal.

Planning balance

38. Policies of the Framework require the less than substantial harm to the CA to be weighed against the public benefits of the proposal and further indicate that great weight should be given to the asset's conservation. The proposal seeks to contribute to a general need for SBCH and there is nothing to suggest that those who would like to build their own homes will only be able to meet their housing needs if this permission is granted. Although permitting the development may help some people to meet their housing need sooner and in a manner that they would like, it would be at the expense of irreversible harm to a heritage asset. While the statutory duty to provide SBCH significantly increases the weight of benefit, it does not, therefore outweigh the harm to the CA in this case.
39. In addition, I have also identified harm to the significance of the known non-designated heritage assets and I am unable to determine whether there would be harm to archaeological remains. Along with the inability to confirm that no harm would arise in respect of biodiversity or surface water drainage, I have identified further conflict with LP policies. While LP Policy HO10 and NDP Policy H1 support infill housing development within High Ercall, the identified harm results in conflict with the development plan, read as a whole.
40. The appellant contends that the most important policies in the development plan are out of date. This is on the basis that Policy HO11 facilitates only affordable SBCH in the rural area. It does not facilitate other forms of SBCH that are supported by the Framework and appear to have continued support from the current Government through its consultation on changes to the Framework and accompanying ministerial statement.
41. However, Policy HO11 is concerned solely with the delivery of affordable housing. Although it may make the development plan's only reference to SBCH, Policy HO11 is not relevant to this proposal that is not for affordable housing. Even though they do not relate specifically or explicitly to SBCH, other policies of the development plan including HO10 and those with which I have found conflict, are relevant to the management of all types of housing delivery in stipulating locational considerations and those relating to the protection of the locality.
42. I have no obvious reason to find that SBCH should be somehow exempt from the above policy requirements, even though the delivery of SBCH is monitored separately to general market housing and in some scenarios may be subject to different planning policies. This is not, therefore, a situation where there are no relevant development plan policies to the proposal. As Policy HO11 is not relevant in this case, those other policies that I have considered through the main issues are the most important for determining this proposal. They have not been shown to be out of date.

43. Even if I am wrong, my conclusion that the public benefits do not outweigh the less than substantial harm to the CA provides a clear reason for refusing the development proposed when applying the Framework's policies that protect assets of particular importance. Thus, the proposal would not benefit from the presumption in favour of sustainable development outlined at Framework paragraph 11 in any event, and the Framework, taken as a whole, does not support the proposal.
44. I, therefore, find that the proposal conflicts with the development plan and material considerations do not indicate that a decision should be made otherwise than in accordance with it. Accordingly, the appeal is dismissed.

M Bale

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

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James Scott

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