
Appeal Decision

Hearing held on 18 March 2015

Site visit made on 18 March 2015

by R C Kirby BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 18 May 2015

Appeal Ref: APP/L3245/A/14/2227146

Rush Lane, Market Drayton, Shropshire TF9 3QX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Gladman Developments Limited against Shropshire Council.
 - The application Ref 14/01982/OUT, is dated 30 April 2014.
 - The development proposed is outline planning application for up to 162 dwellings with associated open space and landscaping, with all matters reserved except for access.
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Decision

1. The appeal is allowed and outline planning permission is granted for up to 162 dwellings with associated open space and landscaping, with all matters reserved except for access at Rush Lane, Market Drayton, Shropshire TF9 3QX, in accordance with the terms of the application Ref 14/01982/OUT, dated 30 April 2014 and subject to the 13 conditions in the Schedule attached to this decision.

Application for Costs

2. An application for costs was made at the Hearing by Shropshire Council against Gladman Developments Limited. This application is the subject of a separate Decision.

Procedural Matter

3. The application was submitted in outline and the application form makes it clear that access is to be determined at this stage. At the Hearing the appellant confirmed that the drawings within the Design and Access Statement were for illustrative purposes only. It is on this basis that I have determined the appeal.
4. An Agreement under Section 106 (S106) of the Town and Country Planning Act 1990 was submitted at the Hearing. I have considered the content of this later in my decision.

Background

5. This appeal arises as a result of the Council not determining the planning application within the extended period for determination agreed with the appellant. The appeal site forms part of a larger site allocated for housing within the emerging Site Allocations and Development Management Plan (SAMDev). It is clear from the Council's evidence that had it been given the opportunity to determine the application, it would have granted planning permission for the scheme, subject to a

number of planning conditions. Indeed, during the course of the appeal process, the Council granted outline planning permission for mixed residential development (up to 162 dwellings), associated open space and landscaping on the appeal site¹.

6. Although the principle of residential development is not in dispute between the main parties, the appellant is concerned that the suggested conditions relating to the submission of a master plan and adherence to it, are not necessary. The Council's objective of achieving a coordinated approach to development on the appeal site and wider allocated site could be achieved through alternative planning conditions.

Main Issue

7. In view of the above, the main issue in this case is whether or not the proposed development of the appeal site would prejudice a coordinated residential scheme for the wider allocated site.

Reasons

8. The appeal site is located at the northern edge of Market Drayton, adjacent to the A53. It comprises 4 agricultural fields and a number of farm buildings. The site has an area of approximately 7.68 hectares. It is bounded on 2 sides by residential development; the A53 on its northern boundary and agricultural fields on its eastern boundary. Rush Lane bisects the site, off which a number of residential properties and a farm house are served. There are numerous trees and hedgerows upon the site.
9. The appeal site comprises part of the allocated housing site MD030 within the emerging SAMDev, located to the east and west of Rush Lane. That part of the appeal site to the east of Rush Lane adjoins the A53 and a roundabout is proposed on this road, from which vehicular access into the site would be provided.
10. Schedule S11.1a of the emerging SAMDev requires development of site MD030 to be coordinated and to include access improvements, cycle and pedestrian links towards the town centre, open space provision and a landscaped buffer along the A53. Flood mitigation should also be provided on that part of the site to the east of Rush Lane. Such a coordinated approach is supported by the National Planning Policy Framework (the Framework), which advises at paragraph 61 that planning policies and decisions should address the connections between people and places and that new development should be integrated into the natural, built and historic environment.
11. The Council submit that conditions requiring the submission of a Master Plan showing how the development would integrate with the remainder of the allocated site would ensure that a consistent approach is applied to the wider allocated site. Indeed such conditions have been attached to the existing planning permission on the site, and the same approach would be taken with the adjoining Danbank site, where the Council has resolved to grant planning permission subject to a S106 Agreement.
12. The appellant considers that the principles of integrating the appeal site with the wider allocated site were established as part of the planning application where a

¹ Application Ref 14/04701/OUT

master planning exercise was undertaken with the adjacent landowners. This resulted in the submission of a Comprehensive Illustrative Masterplan (CIM). Whilst this plan is only illustrative, it demonstrates how the appeal site could integrate with the adjoining sites and includes primary and secondary access routes, public open space and landscaping.

13. Whilst supporting a coordinated approach to the wider allocated site, the appellant considers that a Grampian style master plan condition is unreasonable, as such an exercise would involve land outside of the appellant's control. Only matters that are deliverable within the boundaries of the appeal site should be provided. This could be achieved through the submission of layout details as part of any reserved matters application, along with details showing pedestrian, cycle and vehicular connectivity up the site's boundaries.
14. Whilst noting that the Council consider that a Grampian style Master Plan condition would give more certainty to the development of the larger allocated site, I have not been provided with substantive evidence that the approach suggested by the appellant would prejudice the development of the adjoining sites. The adjacent landowners have raised no objections to the appeal proposal and I have no reason to find that the principles of the CIM would not be adhered to.
15. In any event, I consider that alternative planning conditions could be imposed to achieve the same objective of connectivity with the adjoining sites, the details of which would be for the Council to determine in the future. Such an approach would reduce the likelihood of delays in deliverability of housing on the site. In the event that the neighbouring sites were developed first, the Council would be in a position to ensure that the appeal site was designed in such a way to ensure connectivity and integration with them.
16. I therefore conclude that subject to appropriately worded planning conditions, the development of the appeal site would not prejudice a coordinated residential scheme for the wider allocated site. There would be no conflict with the objectives of Schedule S11.1a of the emerging SAMDev, or paragraph 61 of the Framework in this respect.

Other Matters

Whether new housing in this location would represent sustainable development

17. The appeal site is in close proximity to the town of Market Drayton, and the services and facilities therein. Policy CS1 of the Shropshire Local Development Framework Adopted Core Strategy (Core Strategy) sets out the strategic approach to new development within the County. It identifies Shrewsbury as the sub-regional centre and a growth point. Within the Market Towns, of which Market Drayton is one, around 40% of Shropshire's residential development will be accommodated over the plan period. The allocation of new housing sites is deferred to the SAMDev.
18. The site is located within the countryside where Core Strategy Policy CS5 strictly controls new development. The proposal would not result in an exception to that strict control and there is therefore conflict with this policy.
19. However, within the emerging SAMDev the appeal site has been identified as suitable for housing. There are no outstanding objections to this allocation and I have no reason to disagree with the Council that more than limited weight should be given to this SAMDev allocation in my consideration of the proposed scheme.

The Council has identified part of the site as being capable of delivering approximately 80 dwellings by March 2018 within its Five Year Housing Land Supply Statement (September 2013), and this carries additional weight in favour of the proposal.

20. Furthermore, a planning permission exists on the site for an identical development. Whilst noting local residents' concerns in respect of the suitability of the site for housing, such concerns were aired as part of planning application Ref 14/04701/OUT. In these circumstances, it is clear that while these comments have been aired before, the Council did not find they amounted to reasons to refuse this planning application. Whatever my decision on this appeal, this planning permission could be implemented on the site, and this carries significant weight in my consideration of the appeal proposal.
21. In light of the foregoing, I have no reason to reach a different conclusion to the main parties that new housing in this location would represent sustainable development. The Framework makes it clear at paragraph 49 that housing applications should be considered in the context of the presumption in favour of sustainable development. Whilst there would be conflict with Core Strategy Policy CS5, this is outweighed by the provision of new housing in a location that is considered suitable for residential development. Accordingly there would be no conflict with the objectives of Core Strategy Policy CS1 or with the objectives of Policy CS3 which identifies Market Drayton as suitable for amongst other things, substantial development that balances business development with housing development.

Highway safety

22. The proposed access would be off the A53 where a new roundabout junction would be provided. This would also serve the wider allocated site. Local residents have raised concern that this would result in 4 roundabouts within close proximity which would cause traffic queues on roads leading to the A53 and would result in local roads being used as rat runs.
23. Whilst noting local residents' concerns, the appellant's traffic impact assessment demonstrates that the proposed scheme would have a minimal impact on the highway network and the proposed access junction would operate well within capacity and would adequately accommodate vehicles associated with the allocated site. Furthermore, although there have been recorded accidents within the vicinity of the site, these were slight and largely due to driver error. None were serious or fatal.
24. Local residents are also concerned about the impact of the proposal on Rush Lane which is used by pedestrians, cyclists and horse riders. The appeal site crosses Rush Lane and illustrative drawings were submitted as part of the application showing measures to prevent vehicles associated with the development using this lane. However, whilst there was some discussion in respect of this matter at the Hearing, it was agreed between the parties that the detailed design of this crossing point would be the subject of a further application in the event that planning permission was granted for the scheme.
25. Having regard to my findings, the support for the scheme from the Highway Authority, and in the absence of substantive evidence to demonstrate otherwise, I have no reason to find that the scheme would be harmful to highway safety.

Drainage

26. At the Hearing my attention was drawn to sewage problems within the area. I observed on my site visit that there was a pumping station on the corner of Rush Lane with Bridge Road. I was also advised that there were easements across the appeal site.
27. In terms of the easements, this is a private matter and something that the appellant noted at the Hearing. This matter is therefore not a determining factor in my decision. Whilst noting local residents' concerns in respect of drainage, I note that Severn Trent Water raised no objection to the scheme and recommended planning conditions in respect of future drainage on the appeal site. In light of this, I have no reason to doubt that the site could not be suitably drained in the future.

Living conditions

28. Local residents have expressed concern about the impact of the scheme on their living conditions, particularly through noise and disturbance and privacy. However at this outline stage, matters of layout and appearance are not before me. Such details would be the subject of a further planning application.

Effect on crime

29. At the Hearing I was told by a local resident that the police station in Market Drayton was closing down. As a result there is concern that an increase in population may result in increased crime in the area. The appellant submits that a subsequent layout of the site could ensure that public spaces are overlooked and the Council did not dispute this matter. I share the view that it would be at the reserved matters stage where details such as layout and providing a safe environment for future residents to live in would be considered. In the absence of substantive evidence to demonstrate otherwise, I attach limited weight to these matters at this outline stage.

Effect on local services particularly health and education

30. Local residents have expressed concern that the proposal would place additional demands on the health services in the area, particularly doctors and dentists. The doctor's surgery in Market Drayton serves the town and the rural area around it. I was told that it is often weeks before an appointment can be given and that the surgery has difficulty recruiting doctors.
31. The doctors' practice serves approximately 17,500 patients and whilst the proposal would generate a demand for medical services, I have not been provided with convincing evidence that the existing practice is at capacity and unable to take on further patients. Furthermore, the Council did not raise this concern within its evidence.
32. In terms of education provision, there would be a high probability that some of the new houses would be occupied by children of school age; there is no dispute between the main parties that the site would generate 30 primary aged school children. Whilst noting local residents' concerns that this would place pressure on the existing education facilities, the Council has advised that it is not aware of capacity issues at either primary or secondary level. On the basis of the evidence before me, I have no reason to find that the existing education facilities would not be able to accommodate children that may live upon the appeal site in the future.

Agricultural land value

33. There is no dispute between the main parties that the appeal site comprises largely grade 2 and some grade 3a agricultural land. The Framework advises at paragraph 112 that where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of higher quality. The Council acknowledge that there are insufficient brownfield sites or lower grade agricultural land within the area to accommodate the scale of development necessary for the plan period. Furthermore, it considers that the economic benefits of retaining the land in agricultural use, would not outweigh the provision of housing development on this site. I have no substantive evidence before me to reach a different conclusion to the Council.

Ecology

34. Concern has been raised in respect of harm to ecological interest that would arise as a result of the appeal scheme. An ecological assessment and survey was undertaken as part of the planning application and mitigation measures recommended. Both the Council's Ecologist and Tree Officer considered that the natural and local environment could be enhanced by the proposed scheme and planning conditions could be imposed to ensure this. I have no reason to find that subject to such measures, the ecology of the area would be harmed.

Use of land off Longslow Road

35. The appellant has advised that the area of land on Longslow Road does not form part of the appeal site. It is clear from the submitted drawing that it does not form part of the site and the concerns in respect of the use of this land are not matters for my consideration.

Allotments

36. The Council has advised that the provision of allotments is a function of the Town Council and not a matter that would be material in my determination of the appeal scheme. I have no reason to disagree with the Council in this respect.

Section 106 Agreement

37. The obligations contained within the S106 in respect of affordable housing and public transport provision are not in dispute. However, I am obliged to consider whether such provision is in accordance with paragraph 204 of the Framework, and the statutory tests set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010.

38. Policy CS11 of the Core Strategy requires new development to provide an appropriate housing mix and type, including tenure and affordability. Further guidance is given within the Council's adopted Type and Affordability of Housing Supplementary Planning Document (SPD). At present the SPD requires 10% of the overall number of dwellings to be affordable. However, this is monitored annually and may change. The S106 makes provision for this and it would be the rate that was prevailing at the reserved matters stage that would be applied. This accords with the guidance within the SPD. I am satisfied that the provision of affordable housing on the site is necessary and reasonable to make the development acceptable.

39. The S106 makes provision for a contribution to be paid towards extending the Market Drayton bus service into the appeal site. Policy CS9 of the Core Strategy supports the provision of such infrastructure. The provision of a bus service within the site would give future residents a choice of how they would wish to travel, in accordance with the sustainability objectives of both local and national planning policies. Whilst the route has yet to be finalised (depending on the details submitted as part of a subsequent application), I am satisfied that an extension to the bus service is reasonable and necessary, to support the new housing scheme. The statutory tests are therefore met.

Conditions

40. The Council has suggested a number of conditions it would wish to see imposed in the event that the appeal was allowed. The appellant has also suggested a number of conditions. I have considered the suggested conditions below, in accordance with the advice on conditions within the Planning Practice Guidance (PPG).
41. A condition is necessary to ensure that the development is carried out in accordance with the approved plans. In order to protect the living conditions of nearby residents, a Construction Method Statement condition is necessary. To prevent pollution of ground and nearby water sources, a condition requiring the submission of a Site Investigation report is necessary. In the interests of archaeology, a condition is necessary requiring a scheme of archaeological investigation.
42. Conditions that protect and enhance the ecology and biodiversity of the site are necessary including work within the zone of a badger sett and tree protection. To ensure that the development is sustainable, a condition requiring the submission of a drainage scheme for surface and foul water is necessary.
43. In order to ensure that the development of the site coordinates with the development of adjoining sites, conditions requiring pedestrian, cycle, and vehicle links to be provided to the eastern and western boundaries of the site are necessary, along with a condition requiring details to be submitted showing the extension of the play area on Meadow Close and other public open space for the scheme.
44. However, I have amended some of the suggested wording so that it complies with the guidance within the PPG.
45. Given the nature of the outline application and the matter for which approval is being sought, conditions relating to the provision of artificial nests, bat boxes and external lighting are not necessary at this stage. The appellant's suggested condition limiting the number of dwellings to 113 is not necessary given the description of proposed development. Furthermore, the suggested condition relating to the provision of a temporary flag and pole bus stop is not necessary at this outline stage.

Conclusion

46. For the above reasons, and having regard to all other matters raised, the appeal is allowed.

R C Kirby

INSPECTOR

SCHEDULE

CONDITIONS

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan Drawing No 2013-100-001 and Drawing No SK04.
- 5) The layout submitted as part of any reserved matters application shall include details for the provision of pedestrian and cycle routes through the site, linking to the eastern and western boundaries. The scheme shall be implemented in accordance with the approved details, and shall be constructed prior to the occupation of the first dwelling on the site.
- 6) The layout submitted as part of any reserved matters application shall include details of vehicular routes to be provided from the approved A53 site access to points on the eastern and western boundaries of the site. The scheme shall be implemented in accordance with the approved details and shall be constructed prior to the occupation of the first dwelling on the site.
- 7) The layout submitted as part of any reserved matters application shall include details of an extension to the existing play area on Meadow Close, including details of play equipment and a safe pedestrian route to it, and the provision of informal, natural and semi-natural open space on the site, along with a timetable for implementation. The scheme shall be implemented in accordance with the approved details.
- 8) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
 - i) the parking of vehicles of site operatives and visitors
 - 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 including decorative displays and facilities for public viewing, where appropriate
 - v) wheel washing facilities
 - vi) measures to control the emission of dust and dirt during construction

- vii) a scheme for recycling/disposing of waste resulting from demolition and construction works
 - viii) hours of work for clearance, construction and deliveries to and from the site
 - ix) no burning of materials or vegetation on the site during demolition and construction.
- 9) No development shall take place until a phased programme of archaeological work has been implemented. The programme of work shall make provision for an initial field evaluation, comprising a sample geophysical survey and targeted trial trenching of any anomalies thus identified (up to a 2% sample of the study area), followed by further mitigation as appropriate. Each phase of work should be in accordance with a written scheme of investigation (WSI). These written schemes shall be approved in writing by the local planning authority prior to the commencement of works.
- 10) No development shall take place until a Site Investigation Report has been undertaken to assess the nature and extent of any contamination on the site. The Site Investigation Report shall be undertaken by a competent person and conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'. The Report is to be submitted to and approved in writing by the local planning authority.

In the event of the Site Investigation Report finding the site to be contaminated, a further report detailing a Remediation Strategy shall be submitted to and approved in writing by the local planning authority. The Remediation Strategy must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

The works detailed as being necessary to make safe the contamination shall be carried out in accordance with the approved Remediation Strategy.

In the event that further contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the local planning authority. An investigation and risk assessment must be undertaken in accordance with the requirements of (a) above, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of (b) above, which is subject to the approval in writing by the local planning authority.

Following completion of measures identified in the approved remediation scheme a Verification Report shall be submitted to and approved in writing by the local planning authority that demonstrates the contamination identified has been made safe, and the land no longer qualifies as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land.

- 11) No site clearance works within 30 metres of the badger sett on site shall commence until the sett on site has been closed under licence, in accordance with the details within the Ecological Assessment by FPCR.
- 12) No ground clearance, demolition, or construction work shall commence until an Arboricultural Method Statement and Tree Protection Plan has been submitted to and approved in writing by the local planning authority to ensure no damage to any existing trees or hedgerows within or adjoining the site. The approved scheme shall be retained on site for the duration of the construction works.
- 13) No development, other than the formation of the site access shall take place, until details of the implementation, maintenance and management of a sustainable drainage scheme for the site has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details.