
Appeal Decision

Site visit made on 26 October 2015

by B J Sims BSc(Hons) CEng MICE MRTPI

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

Decision date: 03 November 2015

Appeal Ref: APP/L3245/W/15/3032664

Land of Oldbury Road, Bridgnorth, Shropshire WV16 5DY

- 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 D Doley (P Woodhall and I Bissell) against the decision of Shropshire Council.
 - The application Ref 14/03768/OUT, dated 18 August 2014, was refused by notice dated 19 November 2014.
 - The proposal is for residential development and access.
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Decision

1. The appeal is dismissed.

Procedure

2. The application and appeal are in outline with only the means of access for detailed consideration at this stage. A submitted indicative layout plan is taken into account for illustrative purposes.
3. The Appellants have provided a Unilateral Undertaking pursuant to Section 106 of the Act providing for a proportion of the proposed residential development to be delivered as affordable housing in accordance with the Shropshire Council adopted supplementary planning document 'Type and Affordability of Housing'. This planning obligation meets the requirements of Policy CS11 of the adopted Shropshire Core Strategy, as well as the tests of necessity and direct, fair and reasonable relationship to the proposed development, set down in Regulation 122 of the Community Infrastructure Regulations 2010, and is taken into account as a consideration material to this decision.

Main Issue

4. The main issue is the effect the proposed development would have on the character, appearance and setting of the Oldbury Conservation Area (CA), taking into account the degree of benefit the development would provide.

Reasons

5. The Appellant and the Council both place heavy reliance on a comparison of the present proposal with that dismissed at appeal Ref APP/L3245/A/14/2223481 in January 2015, with detailed reference to the findings of the Inspector in that case. That proposal was also for residential development and access, on the same land, with all matters reserved, apart from means of access. The chief

difference between the current appeal proposal and its predecessor is that the access vision splay at Oldbury Road could be reduced in extent, involving the loss of a shorter length of the existing boundary hedge. Whilst the previous appeal dismissal is a consideration material to the present case, this appeal must be determined on an entirely fresh appraisal of its individual merits.

6. Although not expressly mentioned in any of the written material submitted in connection with appeal, Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 imposes a statutory duty to pay special attention to the desirability of any development within the Oldbury CA preserving or enhancing the character or appearance of that area. The National Planning Policy Framework (NPPF), at paragraph 137, and the national Planning Practice Guidance (PPG) together make clear that the effect of development within the setting of the CA also must be taken into account, in terms of whether the development would enhance or better reveal the significance of the CA. NPPF paragraphs 132-134 give great weight to the conservation of such heritage assets and require that even 'less than substantial' harm to its significance be weighed against the public benefits of the proposed development. These national provisions are reflected in Policies CS6 and CS17 of the CS, whilst Policy CS5 generally restricts development in the countryside outside settlements.
7. The appeal site comprises countryside outside any settlement boundary defined either in the adopted Bridgnorth District Local Plan, the CS or in the emerging Sites and Management of Development (SAMDev) Local Plan, recently subject to public examination. Even so, that is not to say that development on the site should necessarily be refused if it is judged to be sustainable, in particular if the Council is unable to demonstrate a five year housing land supply (5YHLS). In those circumstances, NPPF paragraphs 49 and 14 respectively provide that relevant policies for the supply of housing should not be considered up to date and permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits.
8. Notwithstanding that there is no Conservation Area Appraisal for the Oldbury CA, which is simply depicted on the Council Policy Map, it is clear that the main defining characteristic of the CA, as a whole, is its low density, mainly domestic development, with a wide variety of dwellings, generally well enclosed behind high mature hedges with many specimen trees. This is mainly confined to the south easterly side of Oldbury Road. There is less built development within that part of the CA north west of Oldbury Road, which encompasses several larger scale buildings including the church and an extensive property known as Eversley, bounding the western side of the appeal site. Beyond these northerly properties is essentially open countryside which includes the appeal land and extends to the A458 main road and the southern settlement boundary of Bridgnorth.
9. Only the front most part of the appeal site, together with its mature boundary hedge and trees, lies within the CA. However, the bulk of the site comprises open fields adjacent to the east and north fence lines of Eversley. The appeal site is thus important to the rural setting of the village of Oldbury in that it contributes to its physical and visual separation from urban Bridgnorth. This is achieved in a manner unlike the barrier created by the A458, whereby the physical presence of the road cutting and the noise of the traffic results in a perception of severance rather than of separation.

10. It is evident that, compared with the previously dismissed scheme, the access vision splays, at the Oldbury Road entrance to the site, could be substantially reduced from those shown on the submitted plans, with the approval of the Highway Authority. As a result, the length of the front boundary hedge lost to the development would be limited, as shown on a submitted road elevation, whilst compensatory planting could be placed behind the splays. Moreover, beyond the entrance, the access drive would not necessarily be required to be of adoptable width or alignment. Even so, the existing boundary hedge is characteristic of the verdant, enclosed nature of the CA and its partial loss would harm both the appearance and character of the CA to some degree which would accordingly not be preserved with respect to the statutory duty set out above. This harm is to be regarded as less than substantial in terms of the NPPF but must be weighed against any development benefits.
11. The effect of the development on the setting of the Oldbury CA would be more significant. The site is not highly visible from Oldbury Road itself due to boundary vegetation. However, from other public viewpoints and footpaths crossing the open fields to the north east, the development would be closely visible as an urban intrusion into the open countryside, within which the village and the Oldbury CA are set, eroding its separation from Bridgnorth.
12. There is no doubt that much could be achieved in any detailed design, including a reduction in the number of dwellings from the seven illustrated, extensive landscape planting and careful attention to architectural detail and road layout, to soften and integrate the development into the landscape. However, the presence of the development within the setting of Oldbury would still be harmful to the CA as a whole and would neither enhance nor better reveal its significance, as contemplated by national policy and guidance.
13. Taken together, the degree of direct harm to the Oldbury CA due to the road access and the damage due the urbanisation of the setting of the CA amounts to significant harm, albeit less than substantial in terms of the NPPF. This places the proposed development into conflict with Policies CS6 and CS17 and requires to be weighed against planning benefits.
14. It is evident that the development could be undertaken without unacceptable adverse impact on retained protected trees, wildlife, highway safety or other material planning interests and could provide several units of market and affordable housing in an otherwise sustainable location. Moreover, the proposal must be judged overall on the basis of the presumption in favour of sustainable development in its triple socio-economic and environmental roles, as promulgated in paragraphs 7 and 14 of the NPPF.
15. In relation to the provision of housing, there is a great volume of evidence in this appeal, from both the Council and the Appellants, respectively for and against the claim that the Borough currently enjoys a 5YHLS. In short, the Council is content that it can demonstrate a 5YHLS equivalent to 5.47 years, whilst the Appellants quote other evidence that it is of the order of only 4.28 years, whereby local policies for the supply of housing should not be considered up to date. The difference results from variation in the calculation methodology and assumptions regarding effective deliverability and build rates of individual sites. On balance, it is apparent that the 5YHLS for the purposes of this decision is likely to be just above or just below the requisite equivalent five years. Giving the benefit of any doubt to the Appellants, relevant local

policies for the supply of housing cannot be considered up to date and permission should be granted unless there would be overriding adverse impacts.

16. On an overall balance of judgement however, the socio-economic benefits of contributing a small number of market and affordable homes towards the Borough housing stock in the face of a relatively slight five year undersupply are significantly and demonstrably outweighed by the adverse environmental impacts the development would have on the Oldbury Conservation Area and its setting.
17. For these reasons the appeal fails.

B J Sims

Inspector