



Appeal Decision

Hearing Held on 29 June 2021

Site visit made on 5 July 2021

by [REDACTED] **BA(Hons) DipTP MRTPI**

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

Decision date: 16th July 2021.

Appeal Ref: APP/W1850/W/20/3260641

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by E G Carter and Co Ltd against the decision of Herefordshire Council.
 - The application Ref: 193478, dated 27 September 2019, was refused by notice dated 9 April 2020.
 - The development proposed is the demolition of stable buildings and residential development of 44 single and 2 storey dwellings with associated hard and soft landscaping.
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Preliminary Matters

1. The initial application was for 46 dwellings but this was revised during the course of the Council's consideration of the proposal. All 44 dwellings would be affordable, for either rental or part ownership.
2. Drainage of the site was a concern of the Council in the lead up to the hearing. However, it has been agreed between the parties that this can be dealt with by the imposition of a suitably worded condition on any planning permission granted. As such this is not now a matter of contention.
3. It is also agreed between the parties that the Council cannot currently demonstrate a 5 year supply of deliverable housing land. The site lies within the Wye Valley Area of Outstanding Natural Beauty (AONB) and the National Planning Policy Framework (NPPF) indicates that great weight should be given to conserving and enhancing the landscape and scenic beauty of such areas. However, because of the limited impact of the proposal on the landscape the main parties have agreed that this proposal would not constitute major development for the purposes of paragraphs 172 and 173 of the NPPF. I have no reason to disagree with that assessment.

Decision

4. The appeal is allowed and planning permission is granted for the demolition of stable buildings and residential development of 44 single and 2 storey dwellings with associated hard and soft landscaping at land off Middleton Avenue, Ross-on-Wye HR9 5BD in accordance with the terms of the application, Ref: 193478, dated 27 September 2019, subject to the conditions set out in the attached schedule.

Main Issues

5. The main issues in the appeal are:
 - (a) The suitability of the site for the proposed development, bearing in mind the provisions of the development plan;
 - (b) The impact of the proposal on highway safety and capacity.

Reasons

Suitability of the site

6. The development plan includes the Herefordshire Local Plan Core Strategy (CS) of 2015 and the Ross-on-Wye Neighbourhood Plan (NP) made in 2021. Significantly, the site is included as an allocation in the NP. Under the terms of Allocation 5A.3 it is earmarked for around 15 dwellings and open space or allotments, subject to 3 criteria being met. The latter 2 criteria (which relate to the retention of public rights of way, and managing water runoff) are not at issue here. The first criterion relates to safe access being provided and I deal with that later in this decision.
7. The background to the current proposal, therefore, is that the appeal site has been determined to be suitable for some, albeit limited, residential development. It cannot reasonably be said (and no-one has sought to do so) that 44 dwellings would fit within the allocation description of around 15 dwellings. Furthermore the proposal offers limited open space and no allotments. Plainly the proposal runs counter to the recently made NP and is in conflict with the development plan in that respect.
8. That is not to say that the proposal does not have demonstrable merits. It would provide 44 affordable homes, and by any measure that is a substantial benefit. Against a background of a lack of a 5 year housing land supply, and a significant need for affordable homes in Herefordshire, I afford the proposed development significant weight. The Council's strategic housing officer has supported the proposal, which should be seen against the reported worsening of affordability in Herefordshire.
9. The Council is concerned that the proposal would not be compliant with CS Policy H3. That policy seeks to require an appropriate range and mix of housing. This proposal, in being entirely designed to be affordable, nevertheless includes both rental and part ownership properties. There is a range of property sizes and types. Thus, it seems to me that the homes would both provide and contribute to a wider area of varied housing provision. In my judgement this would readily be seen as being part of a mixed, inclusive and balanced community. I do not accept that the lack of open market housing would mean that it is in conflict with CS Policy H3.
10. The difference between the parties is largely one of the quantum of development. Although there have been suggestions that the site would 'use up' housing requirements which can be provided elsewhere, the housing proposed in the CS is not set as a ceiling. CS Policy SS2 seeks to provide a minimum of 16500 homes in the period to 2031, with some 4700 in urban areas including Ross-on-Wye. The town itself is expected to accommodate a minimum of 900 dwellings in the plan period (as set out in CS Policy RW1) and this proposal would make a useful contribution to that objective. Based on the drawings provided it is apparent that the site could physically accommodate

the 44 dwellings proposed. The Council's planning officer report accepts as much.

11. At the hearing the matter of open space, and specifically allotments, was discussed. There is no mechanism which has been put forward which would provide the areas envisaged by the NP allocation. It is therefore unclear to me how that allocation could be developed as set out in the NP without a willing developer. I have no proposal before me which includes allotments, but some open space is included. The allocation itself requires either open space or allotments and the open space proposed exceeds policy requirements according to the Council's officer report.
12. I am acutely aware that the NP has been made in recent weeks, and that any grant of planning permission for the submitted scheme could be interpreted as running counter to one of its objectives. However, there is clear tension between the aspirations of the NP and the need for housing, including affordable housing. As noted above, there would be conflict with the quantum of development anticipated on this site. On the other hand the public right of way would be retained and some open space provided. This is not, therefore, a case where there would be wholesale conflict with the NP allocation which does seek some housing on the land. I will therefore take my findings on this issue into the planning balance below.

Highway Safety and capacity

13. It is axiomatic that the development would lead to extra vehicular trips along Middleton Avenue, Redhill Road, and Archenfield Road. There is no dispute in relation to the likely trip generation. Remaining concerns from the Council centre on the existing road infrastructure and its capacity to accept the development, together with the impact of traffic in close proximity to Ashfield Park primary school.
14. I noted at my site visit that Middleton Avenue is relatively narrow in places, and that some properties do not enjoy off street parking. During the early to mid afternoon period traffic was light, and there were few parked cars. That situation changed before and during the end of the school day. At that time Middleton Avenue and Redhill Road were heavily used by those collecting children by car. Some parking also took place on Archenfield Road. Although my experience was just one snapshot in time it reinforced the representations made at the hearing that these streets are prone to a degree of congestion during the school drop off and collection periods.
15. Nonetheless the situation appeared to be safe and controlled. Control was self-imposed and largely resulted from slow traffic speeds and the informal one-way use of Middleton Avenue and Redhill Road (although there was some contraflow this did not seem to result in any danger or undue congestion). The busy period was short lived and similar to that experienced in many locations around schools. In that respect I do not regard it as unusual. Even allowing for extra traffic in the morning peak from the proposed development I would not expect there to be significant additional delay or congestion. The evening peak would not coincide with the current school leaving time.
16. The junctions of Middleton Avenue and Redhill Road with Archenfield Road are of reasonable standard, though Archenfield Road is relatively narrow and does carry some heavyweight agricultural traffic (of which there was an intermittent flow during my site visit). These factors seem to me to result in a naturally cautious approach to driving in the locality. Those using the roads regularly

are no doubt well aware of their configuration and the character of the traffic using them.

17. I have noted the fact that negotiations between the Appellant and the Council have been ongoing. It was confirmed at the hearing that it is likely that a suitable scheme of highways design could be achieved which would preclude any unacceptable harm to safety or severe residual cumulative impacts. I agree with that assessment. Hence I find no conflict with CS Policy MT1 or the NPPF. In my judgement a safe access could be provided for this development and this could be ensured by the use of appropriate conditions.

Other Matters

18. A S106 Agreement has been submitted which makes provision for the allocation and future retention of the affordable housing proposed. I am satisfied that the agreement accords with the necessary tests set out in the NPPF and I am able to take it into account in reaching a decision on this case.
19. The site lies within the catchment of the River Wye Special Area of Conservation (SAC). An appropriate assessment (AA) was undertaken by the Council pursuant to the Habitats Regulations. Natural England was content that the AA ascertained that the proposal would not result in adverse effects on the SAC. As the decision maker in this case I have also considered the mitigation measures proposed here, namely the proposal for foul sewage to be disposed of in accordance with CS Policy SD4, and for surface water disposal to be mitigated by the requirement for a scheme to be agreed, which can be required by condition. With these measures in place I am satisfied that there would be no adverse effect on the SAC. As a result the proposal accords with CS Policy LD2.
20. A number of other matters have been raised during the course of the consideration of this proposal. These include the impact on ecology, the design and landscaping of the development, loss of a valued green space and the impact on the living conditions of nearby residents. However, I have noted the various reports prepared by the Appellant and that the Council has not sought to refuse planning permission on the basis of other matters raised. It is also my judgement that these matters, whilst important to those submitting the representations, are not determinative in this case.

Planning Balance

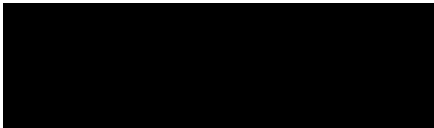
21. The starting point is the development plan. The proposed development accords with a number of the policies which are the most important for determining this case. These are Policy MT1 relating to the provision of safe access, Policy H3 in relation to creating mixed and balanced communities, Policy LD2 relating to the potential impact on the SAC, and Policies SS2 and RW1 in relation to the provision of new homes. I acknowledge that there is conflict with the aspiration for part of NP Allocation 5A.3 in that the quantum of development is higher than indicated. Set against that conflict is the substantial benefit of providing a significant number of affordable homes, and the lack of any tangible evidence that the aspiration to provide allotments or more extensive areas of open space is likely to be achievable. In any event the appeal site has been accepted as being suitable for housing, and it is only the quantity of housing and degree of open space/allotments which is at issue. Taking these matters together it is my judgement that the proposal accords with the development plan as a whole and should therefore be permitted subject to conditions.

Conditions

22. An agreed list of conditions was supplied by the parties. A condition specifying the approved plans is necessary to define the permission. Conditions are also necessary to ensure that an agreed access design has been agreed, that construction management is in place and that roads and drainage will be of suitable standard. Other conditions are necessary to deal with external surface finishes, traffic planning, cycle storage, environmental matters, landscaping, working hours, and the provision of a play area. These conditions will ensure the development is of a satisfactory standard and will protect the amenities of local residents.

Overall Conclusion

23. For the reasons given above I conclude that the appeal should be allowed.



INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - Drawing Number 5385-P-01 Site Location Plan
 - Drawing Number 5385-P-05 Existing Site Plan
 - Drawing Number 5385-P-100 rev H Proposed Site Plan
 - Drawing Number 5385-P-200 rev A 1Bed Flat House Type GF
 - Drawing Number 5385-P-201 rev A 1Bed Flat House Type FF
 - Drawing Number 5385-P-202 rev A 2Bed Flat House Type GF
 - Drawing Number 5385-P-203 rev A 2Bed Flat House Type FF
 - Drawing Number 5385-P-204 rev A 1Bed Bungalow House Type GF
 - Drawing Number 5385-P-205 rev A 2Bed Bungalow House Type GF
 - Drawing Number 5385-P-206 rev B 2Bed House Type 1 GF
 - Drawing Number 5385-P-207 rev B 2Bed House Type 1 FF
 - Drawing Number 5385-P-208 rev B 2Bed House Type 2 GF
 - Drawing Number 5385-P-209 rev B 2Bed House Type 2 FF
 - Drawing Number 5385-P-210 rev B 3Bed House Type 1 GF
 - Drawing Number 5385-P-211 rev B 3Bed House Type 1 FF
 - Drawing Number 5385-P-212 rev B 3Bed House Type 2 GF
 - Drawing Number 5385-P-213 rev B 3Bed House Type 2 FF
 - Drawing Number 5385-P-214 rev A 4Bed House Type GF
 - Drawing Number 5385-P-215 rev A 4Bed House Type FF
 - Drawing Number 5385-P-216 rev A Bed House Type 3 GF
 - Drawing Number 5385-P-217 rev A 3 Bed House Type 3 FF
 - Drawing Number 5385-P-218 2Bed House Type 3 GF
 - Drawing Number 5385-P-219 2Bed House Type 3 FF
 - Drawing Number 5385-P-700 rev A Plots 1 - 2 Proposed Elevations
 - Drawing Number 5385-P-701 rev A Plots 3 - 4 Proposed Elevations
 - Drawing Number 5385-P-702 rev A Plot 5 Proposed Elevations
 - Drawing Number 5385-P-703 rev B Plots 6 - 7 Proposed Elevations
 - Drawing Number 5385-P-704 rev A Plots 8 - 9 Proposed Elevations

Drawing Number 5385-P-705 rev A Plots 10 - 11 Proposed Elevations
Drawing Number 5385-P-706 rev A Plots 12 - 13 Proposed Elevations
Drawing Number 5385-P-707 rev B Plots 14 - 15 Proposed Elevations
Drawing Number 5385-P-708 rev A Plots 16 - 17 Proposed Elevations
Drawing Number 5385-P-709 rev C Plots 18 - 20 Proposed Elevations
Drawing Number 5385-P-710 rev B Plot 21 Proposed Elevations
Drawing Number 5385-P-711 rev A Plot 22 Proposed Elevations
Drawing Number 5385-P-712 rev A Plot 23 Proposed Elevations
Drawing Number 5385-P-713 rev B Plots 24 - 25 Proposed Elevations
Drawing Number 5385-P-714 rev A Plots 26 - 27 Proposed Elevations
Drawing Number 5385-P-715 rev A Plots 28 - 29 Proposed Elevations
Drawing Number 5385-P-716 rev A Plots 30 - 31 Proposed Elevations
Drawing Number 5385-P-717 rev A Plots 32 - 33 Proposed Elevations
Drawing Number 5385-P-718 rev A Plots 34 - 35 Proposed Elevations
Drawing Number 5385-p1000 Rev B – Boundary Treatment Plan
Drawing Number 5385-P-719 rev A Plot 36 Proposed Elevations
Drawing Number 5385-P-720 rev A Plot 37-38 Proposed Elevations
Drawing Number 5385-P-721 rev B Plots 39-40 Proposed Elevations
Drawing Number 5385-P-722 rev A Plots 41-42 Proposed Elevations
Drawing Number 5385-P-723 rev A Plots 43-44 Proposed Elevations
Drawing Number 0100 rev P04 Existing and Proposed levels
Drawing Number 0101 rev P04 Existing and Proposed levels

- 3) Notwithstanding the approved plans no development shall take place in relation to any highways works until details of the works have been submitted to and approved in writing by the local planning authority. The development shall not be first occupied until the scheme has been completed in accordance with the approved details.
- 4) No development shall take place until a detailed drainage strategy has been submitted to and approved in writing by the local planning authority, which demonstrates that opportunities for the use of SUDS features have been maximised. The strategy should demonstrate that infiltration techniques have been fully considered and shall be implemented as approved.
- 5) The construction of the vehicular access to the site shall be carried out in accordance with a specification to be submitted to and approved in writing by the local planning authority, at a gradient not steeper than 1 in 12.
- 6) No development shall take place, including any works of demolition, until a Construction Traffic Plan has been submitted to, and approved in writing by the local planning authority. The Plan shall provide for:
 - i) the parking of vehicles of site operatives and visitors;
 - ii) a method for ensuring mud is not deposited on the public highway;
 - iii) construction traffic access location;
 - iv) construction traffic management plan.The approved Construction Traffic Plan shall be adhered to throughout the construction period for the development.
- 7) No development shall take place in relation to the provision of road and drainage infrastructure until the following details have been submitted to and approved in writing by the local planning authority:
 - i) Surface finishes;
 - ii) Drainage details;

- iii) Future maintenance arrangements.
- 8) No development shall take place, including any works of demolition or site clearance, or materials moved onto the site, until a construction environmental management plan (CEMP) including a full ecological working method statement and a specified responsible person, has been submitted to and approved in writing by the local planning authority. The CEMP shall be implemented as approved and shall remain in place until all work is complete on site and all equipment and spare materials have been removed.
- 9) The ecological protection, mitigation, compensation and working methods scheme including the biodiversity enhancements, as recommended in the report by Abricon, dated August 2019, shall be implemented and thereafter retained in full. No external lighting shall illuminate any boundary feature, adjacent habitat or areas around the approved mitigation and biodiversity enhancement measures.
- 10) No development beyond site clearance and groundworks shall take place until details or samples of the materials to be used on the external surfaces of the dwellings hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 11) No development beyond site clearance and groundworks shall take place until details of the surface of the public rights of way have been submitted to and approved in writing by the local planning authority. Works shall be carried out in accordance with the approved details prior to first occupation of the development.
- 12) No development beyond site clearance and groundworks shall take place until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. The details shall include:
 - i) A statement setting out design objectives and how these will be delivered;
 - ii) A soil resource survey (SRS) and soil resource plan (SRP) in accordance with the Construction Code of Practice for the Sustainable Use of Soils in Construction Sites (Defra 2009);
 - iii) A plan showing existing and proposed finished levels or contours;
 - iv) Details of hard surfacing materials;
 - v) Boundary treatments and means of enclosure;
 - vi) Artefacts and structure such as street furniture, play equipment and water features;
 - vii) Vehicle, cycle and pedestrian access and circulation areas;
 - viii) Vehicle parking layouts;
 - ix) Lighting and CCTV;
 - x) Any trees or hedgerows to be removed;
 - xi) Trees and hedgerows to be retained, together with measures for their protection during construction, in accordance with BS5837:2012.
 - xii) Proposed planting, with a written specification setting out species, size, quantity, density and cultivation details;

- xiii) Water attenuation schemes;
 - xiv) An environmental plan for the protection of sensitive landscapes during the construction phase.
- 13) No development beyond site clearance and groundworks shall take place until details of the play area have been submitted to and approved in writing by the local planning authority. These details shall include:
- i) Play equipment;
 - ii) Surfacing;
 - iii) Landscaping;
 - iv) Means of enclosure;
 - v) Street furniture.
- 14) Prior to first occupation of the development hereby permitted a travel plan which contains measures to promote alternative sustainable means of transport for residents and visitors shall be submitted to and approved in writing by the local planning authority. The travel plan shall be implemented as approved on first occupation of the development. Details of the measures undertaken to promote sustainable transport shall be recorded, reviewed annually, and shall be made available for inspection by the local planning authority on request.
- 15) Prior to first occupation of the development hereby permitted a scheme setting out measures for the efficient use of water in accordance with the optional technical standards within Policy SD3 of the Herefordshire Local Plan Core Strategy shall be submitted to and approved in writing by the local planning authority. The scheme shall be implemented as approved.
- 16) Prior to first occupation of the development hereby permitted details of a scheme for the provision of secure and covered cycle parking shall be submitted to and approved in writing by the local planning authority. The scheme shall be implemented as approved and be available for use on first occupation of any dwelling, and shall thereafter be retained.
- 17) Prior to first occupation of the development hereby permitted a scheme to enable the provision of charging facilities for electric and other ultra-low emission vehicles shall be submitted to and approved in writing by the local planning authority. The scheme shall be implemented as approved and be available for use on first occupation of the relevant dwelling.
- 18) Prior to first occupation of the development hereby permitted a scheme of landscape management and maintenance for a period of 10 years shall be submitted to and approved in writing by the local planning authority. The scheme shall be implemented as approved.
- 19) During the construction phase no machinery shall be operated, no process shall be carried out and no deliveries taken or despatched from the site outside the following times:
- Monday to Friday 0700 to 1800
- Saturdays 0800 to 1300
- And not at any time on Sundays, Bank or Public holidays.

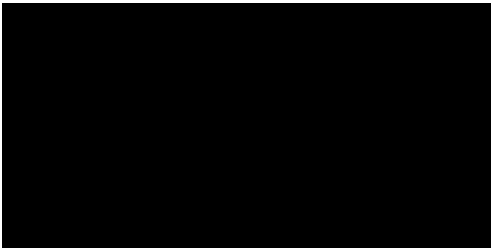
APPEARANCES

FOR THE APPELLANT:



Director, RCA Regeneration
Cotswold Transport Planning

FOR THE LOCAL PLANNING AUTHORITY:



Principal Planning Officer
Team Leader/Area Engineer
Planning Obligations Manager
Assistant Drainage Engineer

INTERESTED PERSONS:

