

Appeal Decision

Site visit made on 10 May 2017

by Paul Singleton BSc (Hons) MA MRTPI

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

Decision date: 25 May 2017

Appeal Ref: APP/J3720/W/16/3167715

Land to the rear of Appelton House, Church Road, Snitterfield, Stratford-upon-Avon CV37 0LE

- 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 Spitfire Properties LLP against the decision of Stratford on Avon District Council.
 - The application Ref 16/02671/FUL, dated 12 August 2016, was refused by notice dated 13 October 2016.
 - The development proposed is the erection of 7 dwellinghouses, realignment of vehicular access off Church Road and associated development.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 7 dwellinghouses, realignment of vehicular access off Church Road and associated development at land to the rear of Appelton House, Church Road, Snitterfield, Stratford-upon-Avon CV37 0LE in accordance with the terms of the application, Ref 16/02671/FUL, dated 12 August 2016, subject to the conditions in the attached schedule.

Procedural Matters

2. At the request of interested parties, I viewed the site from the gardens of a small number of properties at Bell Lane and Bell Brook as part of my site visit.
3. A legal agreement has been entered into between the Council and the appellant under Section 106 of the Town and Country Planning Act 1990. This relates to the payment of a capital sum by the appellant as a contribution to the provision of affordable housing with the District. I have had regard both to this agreement and to the Statement of Common Ground which been signed by the main parties.

Main Issues

4. The main issues are:
 - (a) whether the proposed development is acceptable having regard to the development strategy for the District and the principles of sustainable development;
 - (b) whether the proposal would constitute inappropriate development in the Green Belt;
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(c) the effect on the character and appearance of the village; and

(d) the effect on the character and appearance of the conservation area and on the setting of nearby listed buildings.

Reasons

Development strategy

5. Policy CS.15 of the Stratford-on-Avon Core Strategy (2011-2031) (Core Strategy) states that the distribution of development will be based on a pattern of balanced dispersal in accordance with the distinctive character and function of the wide range of sustainable locations across the District. One of the categories of sustainable location identified is that of 'Local Service Village' (LSV). Snitterfield is one of 10 villages designated as Category 3 LSVs.
6. The ability of these sustainable locations to accommodate additional housing is confirmed in Policy CS.16 which includes a strategic allocation of approximately 2,000 new homes to be provided within the designated LSVs over the plan period. The policy identifies a total housing requirement for the Category 3 LSVs of 450 homes of which no more than around 13% (around 59 homes) should be provided in any individual settlement.
7. Policy CS.15 states that development in LSVs will take place on sites identified in a Neighbourhood Plan, and through small scale schemes on unidentified but suitable sites within their 'Built-Up Area Boundaries'. A Neighbourhood Plan is being prepared for Snitterfield but is at an early stage of preparation and can only be afforded limited weight. The appeal site is agreed to be within the Built-Up Boundary of the village and the main area of dispute is whether or not the proposal can reasonably be considered to be a small scale scheme.
8. The Core Strategy provides no definition or guidance as to what should be regarded as 'small scale' but paragraph 5.1.8 advises that the approach to the scale of development seeks to minimise impact on the character of settlements while helping to sustain their future. In the absence of any definition the question of whether or not a scheme is small scale is a matter of planning judgement. In line with the Inspector who determined the planning appeals in Long Marston¹ and Lower Brailes² in 2016, I consider that this judgement should be based on the size of settlement, the relative proportionality of the proposed development to that settlement, the availability of services and facilities, and the pattern of development in the vicinity. Given that it was prepared for a wholly different purpose I do not consider that the Development Management Procedure Order³ provides any useful guidance on this matter.
9. The 2011 Census recorded some 888 dwellings within Snitterfield Ward although that total includes a significant number outside of the confines of the village itself. Nevertheless, in terms of the number of new homes proposed, the appeal scheme is of a very small scale relative to the size of the village and the existing number of dwellings within it. The Statement of Common Ground identifies that Snitterfield has a range of services and facilities within walking distance of the appeal site and the Council accepts that this would be a

¹ APP/J3720/W/16/3153788

² APP/J3720/W/16/3153698

³ Town and Country Planning (General Management Procedure) (England) Order 2015

- sustainable location for new housing. Indeed, that is why the village has been identified as a Category 3 LSV within the development strategy.
10. The 7 homes proposed represent a very small proportion (about 1.5%) of the total 450 dwellings requirement across the 10 LSVs and a modest share (around 12%) of Snitterfield's assumed maximum contribution of 59 dwellings. Policy CS.15 advises that the scale of housing development appropriate in each village is as specified in CS.16. The Council has, therefore, identified Snitterfield as being suitable to accommodate a significant share of the 450 dwellings requirement and deemed that up to 59 homes is an appropriate scale of development within the village. The proposal for 7 dwellings is a small scale scheme in that context.
 11. At 0.78 hectares the site could accommodate a larger number of dwellings and the Strategic Housing Land Availability Assessment 2012 suggested that it could be suitable for up to 18 dwellings. The lower density and proposed mix of large houses and bungalows shown in the appeal scheme would be in keeping with the site's immediate surroundings. The appeal scheme would be an appropriate form of development in that context. The Council comments on the size of the proposed dwellings and their plots but I do not consider this a relevant consideration. The 'small scale' test in Policy CS.15 clearly relates to the development scheme and not to the individual dwellings within it. The Council suggests that the 'Requirements' section of CS.15 is relevant to that test but that part of policy states that it applies to all development in existing settlements and not just to proposals within LSVs.
 12. The site is enclosed on all sides by existing residential development including some very large houses in extensive plots and the scale of development and mix of housing proposed would be appropriate in that context. The Council raises no objection to the proposed mix in terms of meeting local housing needs. The development of the site at an even lower density would not represent an effective use of the land available and there is nothing within the policy that requires that any such proposals should be phased over a number of years. In light of my findings that scale of development proposed is proportionate to size of the settlement and scale of growth anticipated over the plan period, the proposal would also be of an appropriate scale in relation to the overall character of the village. The construction of 7 new homes over the 12 or more months that these might be built out would represent organic growth in the context of the existing size of the village. No conflict therefore arises with the second principle set out under Policy CS.15.
 13. Some objectors refer to the proposal as 'backland' development but there is nothing in Policy CS.15 which states that such development is inappropriate within the LSVs. Many of the existing properties back on to open countryside but this linear pattern of development along main routes has not been reflected in more recent housing schemes in the village. The width of the site is more than sufficient to accommodate dwellings on both sides and at the head of the proposed access road whilst making adequate provision for the parking and turning of vehicles and for private amenity space to serve each of the proposed dwellings. The cul-de sac layout would be in keeping with other recent developments and there is nothing in the scheme that appears either cramped or contrived in order to fit within the appeal site. The layout and form of housing proposed would be well related to the existing development within the village and be readily capable of being integrated into the form and character

of the settlement. Hence, I find no conflict with the third of the six principles set out in Policy CS.15.

14. Although some adjoining properties have views over the site from their first floor windows it is largely hidden from public view. No appreciation can be gained when walking along Church Lane of the extent of the garden and paddock to the rear of Appleton House. Even in the more elevated views referred to by objectors, it is the extensive tree coverage around the site rather than its open nature that contributes to the landscape character of the village. The Landscape Sensitivity Study 2011/2012 identified the site as being of only medium sensitivity to housing development. My observations are in line with that assessment and I find no conflict with the fourth principle of Policy CS.15 with regard to the effect on the surrounding landscape. The Council has not alleged any conflict with any of the other of the six principles and I see no reason to reach a contrary conclusion.
15. Accordingly, I find that the proposal complies with Policies CS.15 and CS.16 of the Core Strategy and that the development of 7 new homes on the appeal site would make a valuable contribution to meeting the scale of housing proposed within the designated LSVs. Given its compliance with the Council's approved development strategy, and the accessibility that future occupiers of the proposed homes would have to local facilities and services, the proposal would constitute a sustainable form of development.

Green Belt

16. Core Strategy Policy CS.10 states that limited infilling in LSVs identified in accordance with Policy CS.16 is not inappropriate development in the Green Belt. This is consistent with the fifth bullet of Paragraph 89 of the National Planning Policy Framework (Framework) which identifies limited infilling in villages as one of the exceptions to the general presumption against the erection of new buildings in the Green Belt. The site is within the Built-Up-Boundary for Snitterfield which has been defined by the Council for the express purpose of identifying where limited infilling might be appropriate (paragraph 4.1.7 of the Core Strategy).
17. No definition of 'limited' is given in the Core Strategy or the Framework and whether a proposal falls within the scope of this exception is a matter of planning judgement. In this case, the appeal site is contained by existing development on all sides and the number of new dwellings proposed is modest by reference to the existing size of the settlement and the overall level of growth anticipated within it. In this context, and that of the site's surroundings, the proposal would constitute limited infilling within the village and would not be inappropriate development in the Green Belt. Case law⁴ has established that, if development is found not to be inappropriate, it should not be regarded as harmful either to openness or to the purposes of including land in the Green Belt. Hence, there is no need for me to consider the effect of the proposal on the openness of the Green Belt.

Character and appearance

18. For the reasons already set out, I do not consider that the garden and paddock make a significant contribution to the open character and appearance of the

⁴ Lee Valley Regional Park Authority, R (on the application of) v Epping Forest District Council & Anor (Rev 1) [2016] EWCA Civ 404.

village. Nearly all of the trees and other vegetation to the site perimeter would be retained and be reinforced with additional landscaping and the proposal would not have a significant effect on the wider landscape character of the village.

19. The proposal involves the replacement of the existing driveway with a new access further to the south west. This would be slightly wider but its proposed alignment means that potential views into the site would be screened by Appleton House itself and by the retained/ replanted hedge to the front boundary. The low wall to the roadside boundary would be reinstated and a new hedge planted behind the visibility splay as far as possible. Only about 10 metres (m) of this existing boundary treatment would be lost altogether. Boundary treatments to properties fronting Church Road are quite varied and, although the low wall to the front of the appeal site is not unattractive, it is not characteristic of the street scene as a whole.
20. These changes would have minimal effect on the appearance of the site and would cause no detriment to the character and appearance of the street scene or the village as a whole. There would be no conflict with Core Strategy Policy CS.9 which states that all forms of new development should reflect the character and distinctiveness of the locality.

Heritage assets

21. The site lies outside of Snitterfield Conservation Area, the boundary of which runs along the roadside frontage to Appleton House. As it is not accessible to the public and is largely hidden, even in more distant views, the appeal site makes a very limited contribution to how the Conservation Area is seen or experienced when moving around the village. Most of the perimeter vegetation would be retained and the new buildings would have very limited visibility and minimal effect on the setting of the Conservation Area. The removal of a short section of the low front wall would have some effect on that setting and, whilst agreeing that this would be less than substantial, I place it at lowest end of the scale of harm.
22. The settings of the two listed buildings on Smith's Lane (Avebury and The Gables) that back onto the site are largely defined by their own domestic curtilages. Due to the generous size of those curtilages and the extensive screening provided by the vegetation to the shared boundaries, the site does not make any meaningful contribution to the setting of those properties. Holly Cottage, which lies over 50m to the south east, is physically and visually separated from the appeal site by Appleton House and its own extensive rear garden. There is no evidence of a historic connection between Holly Cottage and the appeal site and, due to that separation, the site does not contribute to the setting of that building to any material degree.
23. In combination with the considerable length of the rear gardens to Avebury and The Gables, the proposed layout would achieve substantial separation distances between those properties and the new dwellings. Those separation distances and the proposed form and design of the new dwellings would ensure that the proposal would have no material effect on the setting of those listed buildings. The dwelling proposed on Plot 4 and its residential curtilage would not encroach on the setting of Holly Cottage and neither would the alterations to the front boundary wall cause any significant harm to its setting.

24. In summary, I find that there would be no harm to the setting of any nearby listed buildings and less than substantial harm to the setting of Snitterfield Conservation Area. Paragraph 134 of the Framework advises that, where a development proposal would cause less than substantial harm to the significance of a designated heritage asset, that harm should be weighed against the public benefits of the proposal.
25. The public benefits of the proposal include: the provision of 7 new homes within a sustainable location which would support the Council's approved development strategy and contribute to its 5-year housing land supply; the economic benefits derived from the investment and employment involved in the construction of the development; future expenditure by occupiers of the proposed homes in local shops goods and services; a financial contribution towards the provision of affordable housing and the payment of a New Homes Bonus. These benefits clearly outweigh the very low level of harm that would be caused to the setting of the Conservation Area. There would, accordingly, be no conflict either with the policies in section 12 of the Framework or with Core Strategy Policy CS.8 which seeks that the District's historic environment should be protected and enhanced.

Other Matters

26. Reference has been made to the results of a speed survey carried out on Church Road which I understand have been submitted to the County Council as Local Highway Authority. The Highway Authority has not made further submissions in relation to the appeal nor revised its earlier conclusions that the proposal would be acceptable and would not lead to severe detriment to the safety or operation of the local highway network. Nothing I saw on my site visit leads me to question those conclusions and I am satisfied that the appropriate visibility splay can be provided without the need for encroachment on third party land.
27. The development would be visible from bedrooms to some of the properties backing on to the site but potential views from their ground floor rooms and rear gardens would be screened by existing and proposed fences and vegetation. The separation distances proposed would also ensure that there would be no loss of privacy to or significant effect on the outlook from those properties. The consultation draft of the Snitterfield Neighbourhood Plan proposed that the appeal site be designated as Local Green Space but that proposal is the subject of an objection. Given that objection and that the plan is still at an early stage of its preparation I am unable to give its proposals any significant weight in the determination of the appeal.
28. Paragraph 204 of the Framework requires that planning obligations should only be sought, and that weight be attached to their provisions, where they are: necessary to make the development acceptable in planning terms; directly related to the development proposed; and are fairly and reasonably related in scale and kind to the development.
29. Policy CS.18 of the Core Strategy requires that new residential development should contribute towards affordable housing provision in the District and provides that this contribution can be by means of a financial payment in relation to proposals for less than 11 homes where on-site provision is not being made. I am satisfied that the obligation within the S106 agreement to make an affordable housing contribution is necessary to ensure compliance

with this policy and that the sum proposed is reasonable in relation to the scale of development proposed. The terms of the legal agreement meet the tests set out in the Framework and I have afforded it significant weight in reaching my decision.

30. Reference is made in the written submissions to possible obligations in relation to open space provision and enhancement but no such obligations are included in the S106 agreement. Core Strategy Policy CS.25 sets out a general aspiration that new housing development will enable an increase or enhancement of open space. However, no information has been provided to justify the need for a financial contribution to the provision of new open space in order to help meet the standards set out in the Council's Open Space, Sport and Recreation Assessment. There is, accordingly, no evidence that such a financial contribution is necessary to ensure compliance with Policy CS.25.

Conditions

31. The conditions in the accompanying schedule are based on those suggested by the Council. Where necessary I have amended the wording in the interests of precision and clarity and to comply with advice in the Planning Practice Guidance.
32. I have not adopted the Council's suggestion of a condition requiring that development be carried out in full accordance with the various reports submitted with the planning application as such a requirement would be unduly onerous given the extent of information included in those reports. I have, however, attached conditions relating to specific recommendations set out in the Arboricultural and Ecology Reports.
33. I have considered the Council's suggestion of a condition that would remove the normal permitted development rights attaching to residential properties but can see no necessity or justification for this restriction. The reason given by the Council is not borne out by the conclusions in the officer report that the development would not have an adverse impact on the amenity of neighbouring properties and would ensure the creation of an appropriate quality living environment for existing and future occupiers. Hence, the suggested condition is not required to render the proposal acceptable in planning terms and does not meet the tests set out in paragraph 204 of the Framework.
34. Permission is granted in accordance with the terms of the application but, in the interests of certainty, a condition is required to tie the planning permission to the approved plans. A condition requiring approval of details and samples of the external materials is needed to ensure a high quality of development appropriate to its location and setting. Due to the topography of the site a condition is also needed to require approval of finished site and floor levels prior to the commencement of development. This is to ensure an appropriate relationship with the existing properties that bound the site. A condition requiring the submission and approval of a drainage scheme is needed to ensure an appropriate standard of development and to protect other land and the highway from flooding.
35. The potential archaeological interest of the site requires a condition relating to the carrying out of mitigation and recording works in line with the recommendations in the submitted reports. A condition requiring the

submission of a scheme of hard and soft landscaping is needed to ensure an appropriate quality of development. In order to maintain that quality a condition is also needed to require the maintenance and replacement of any soft planting that is lost or removed in the 5 years following completion of the works. The trees and hedges to the site perimeter are an important element of its character and for this reason, and to ensure a satisfactory relationship with neighbouring properties, a condition has been attached to require that appropriate tree protection measures are put in place prior to the commencement of any works.

36. Measures are needed to protect neighbouring residents from noise and other disturbance and to avoid unnecessary disruption to the highway network during construction. I have, therefore, attached a condition which requires the approval of a Construction Management Scheme prior to the works being commenced. In order to minimise the effect on breeding birds a condition is also needed that limits the time of year when demolition works and removal of trees can be carried out.
37. A condition requiring that details of proposed boundary treatments be approved is needed to ensure a satisfactory relationship with neighbouring properties. To ensure the satisfactory and safe operation of the development conditions are needed to require that the revised access, visibility splays, site access road, vehicle parking and turning areas are all completed in accordance with the approved plans before any of the dwellings are occupied. A condition is also needed to require that a scheme of ecological enhancement works be approved and implemented prior to the occupation of the dwellings to minimise the effects on the ecological value of the site.
38. Finally, in order to ensure that the development operates in a satisfactory and sustainable manner conditions are needed to require that each dwelling is provided with a water butt and bins for refuse storage and recycling prior to first occupation.

Conclusions

39. For the reasons set out above, and having regard to all matters raised, I conclude that the appeal should be allowed.

Paul Singleton

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 plans and drawings:
 - 1534-50F – Proposed Site Plan
 - 1534-51F – Plot 1 as Proposed
 - 1534-52E – Plot 2 as Proposed
 - 1534-53F – Plot 3 as Proposed
 - 1534-54G – Plot 4 as Proposed
 - 1534-55F – Plot 5 as Proposed
 - 1534-56F – Plot 6 as Proposed
 - 1534-57F – Plot 7 as Proposed
 - 1534-60A – Site Sections A-A, B-B and C-C as Proposed
 - 1534-61A – Context Site Plan as Proposed
 - 1534-62 – Separation Distances as Proposed
 - 1534-63 – Site Location Plan
 - 1534-63 – Access Arrangement as Existing and Proposed
 - 1534-64 – Street Elevations
 - P1026-201B – Proposed Access and Visibility
 - P1026-303A – Site Layout and Manoeuvring with a Large Refuse Wagon
- 3) No development shall take place until samples of brick and roofing materials and full specifications of the proposed windows, external doors, rainwater goods and verge treatments to be used in the construction of the external surfaces of the dwellings hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 4) No development shall take place until detailed plans and sections showing existing and proposed site levels have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 5) No development shall take place until a scheme for the disposal of surface water and foul sewage has been submitted to and approved in writing by the local planning authority. The scheme shall be carried out in accordance with the approved details and be completed before any of the dwellings hereby approved are occupied.
- 6) No development shall take place until the archaeological mitigation works recommended in the Archaeological Written Scheme of Investigation – December 2014 (Archaeology Warwickshire) and the Archaeological Desk Based Assessment – December 2014 (Archaeology Warwickshire) have been undertaken in full and the results of the works suitably recorded and submitted to the Warwickshire Historic Environment Record.

- 7) Notwithstanding the submitted details, no development shall take place until a landscaping scheme, including details of all proposed soft landscaping (including trees and shrubs) and hard surfacing has been submitted to and approved in writing by the local planning authority. The scheme shall include full planting specifications, a soft landscaping management schedule and full specifications of hard surfaced areas (including expected permeability/drainage capabilities).

All hard landscaping works shall be completed in accordance with the approved details before any of the dwellings hereby permitted are occupied. All soft landscaping works shall be undertaken in accordance with the approved details before the end of the first available planting season (October to March inclusive for bare root plants), following the commencement of the development.

- 8) All soft planting provided as part of the landscape scheme shall be maintained in accordance with the approved management schedule. Any trees or plants which, within a period of 5 years from the completion of the development, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 9) All trees and hedges shown on the Tree Removal and Tree Protection Plan at Appendix 2 to the Arboricultural Report and Tree Condition Survey (Ruskins - August 2016) to be retained shall be protected by strong fencing, the location and type of which has been previously approved in writing by the local planning authority. The fencing shall be erected in accordance with the approved details before any equipment, machinery or materials are brought onto the site for the purposes of constructing the development and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed within any fenced area, and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the prior written consent of the local planning authority.
- 10) No development, including any demolition works, shall take place until a Construction Management Scheme has been submitted to and approved in writing by the local planning authority. The scheme shall provide for:
- i) hours of demolition/ground works and construction works;
 - ii) the hours for deliveries of materials to or the collection of materials/waste from the site;
 - iii) the parking of the vehicles of site operatives;
 - iv) loading and unloading of plant and materials;
 - v) storage of plant and materials used in constructing the development;
 - vi) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - vii) wheel washing facilities;
 - viii) measures to control the emission of dust and dirt during construction;
 - ix) a scheme for recycling/disposing of waste resulting from demolition and construction works.

The works shall be carried out in strict accordance with the approved scheme.

- 11) No demolition or removal of trees or other vegetation shall take place between 1 March and 31 August inclusive unless a competent ecologist has previously checked the site for active birds' nests and confirmed in writing to the local planning authority that no active nests would be put at risk by the works.
- 12) None of the dwellings hereby approved shall be occupied until full details of the boundary enclosures to the curtilage of all dwellings have been submitted to and approved in writing by the local planning authority. The boundary treatments for each dwelling shall be completed in accordance with the approved details prior to the first occupation of that dwelling.
- 13) None of the dwellings hereby approved shall be occupied until the revised site access and associated visibility splays have been constructed in accordance with the details shown on Drawing Nos 1534-63 and P1026-201B and are available for use. The site access and visibility splays shall thereafter be maintained throughout the life of the development.
- 14) None of the dwellings hereby approved shall be occupied until the site access road, vehicular parking and turning areas have been constructed in full in accordance with the details shown on Drawing No 1534-50F and are available for use. The parking and turning areas shall thereafter be maintained in and kept available for use for these purposes throughout the life of the development.
- 15) None of the dwellings hereby approved shall be occupied until a scheme of ecological enhancement measures, prepared in accordance with the recommendations in Section 5 of the Extended Phase 1 Ecological Survey Report (Ruskins – August 2016) has been submitted to and approved in writing by the local planning authority. The works shall be carried out in accordance with the approved details and be completed prior to any of the dwellings being occupied.
- 16) No dwelling shall be occupied until it has been provided with a minimum 190 litre capacity water butt fitted with a child-proof lid and connected to a rainwater downpipe.
- 17) No dwellings shall be occupied until 3 bins for the purposes of refuse, recycling and green waste have been provided for use of the occupiers of that dwelling.

End of Schedule of Conditions