

## Appeal Decision

Site visit made on 23 November 2015

**by Terry G Phillimore MA MCD MRTPI**

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

**Decision date: 17/12/2015**

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**Appeal Ref: APP/J3720/W/15/3130036**

**Land north of Evesham Road, Shotton, Stratford-upon-Avon CV37 9RX**

- 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 Gladman Developments Ltd against the decision of Stratford on Avon District Council.
  - The application Ref 14/01715/OUT, dated 24 June 2014, was refused by notice dated 5 June 2015.
  - The development proposed is residential development of up to 155 dwellings, including means of access (from Evesham Road), infrastructure and public open space.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The appeal relates to an outline application with all matters reserved other than the means of access as set out in the above description.
3. On 14 November 2014 a screening direction was issued by the Secretary of State under the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2011 that the proposal is not 'EIA development'. The opinion on the likelihood of the development having significant environmental effects was reached only for the purposes of the direction.
4. The appellant has submitted a unilateral undertaking containing planning obligations pursuant to section 106 of the Act.

### Main Issues

5. The main issues are the effects the development would have on
    - a) the character and appearance of the area,
    - b) the significance of heritage assets in the vicinity,
    - c) highway safety;and the balance to be drawn between any identified harm and benefits and whether the proposal represents sustainable development.
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## **Reasons**

### ***Character and appearance***

6. The 7.41ha site comprises agricultural land in the form of a single open field which at its south end abuts the north side of Evesham Road. There are residential properties along the frontages of the adjoining sections of Evesham Road on both sides, with a detached restaurant premises immediately to the south-east corner. The wider surroundings are agricultural. On this western side of the town of Stratford-upon-Avon the land begins to rise towards the local high point of Bordon Hill.
7. Planning permission was granted by the Secretary of State on 24 October 2012 for a development including up to 800 dwellings on land to the east and north of the site (ref APP/J3720/A/11/2163206). The permitted scheme would provide a new link road between Alcester Road and Evesham Road, with a roundabout junction on Evesham Road to the east of the current appeal site. The approved plans show the part of the residential development at the southern end of the new link road on land adjacent to the east boundary of the current site. The link road would involve the removal of two frontage residential properties onto Evesham Road but the remainder of the properties in this section would be retained.
8. In terms of identified local landscape character, under the Warwickshire Landscape Guidelines 1993 the appeal site lies within the Vale Orchard Belt of Local Character Type of the Avon Valley Regional Character Area. This is described as an open rolling intensively farmed landscape of large poorly defined fields, orchards and prominent hilltop woodland. While orchards are not presently in evidence on the site, it displays some of the other identified characteristic features of this landscape by way of rising ground with large scale rolling topography and a large scale often poorly defined field pattern. This is especially so with respect to the site being a large field with hedgerow boundaries of variable quality, and with its rise up towards Bordon Hill.
9. The Council's Landscape Sensitivity Assessment 2011 was prepared to help inform consideration of the suitability of land around settlement edges for possible future housing and commercial development. In this Assessment the site falls within two defined Land Cover Parcels. These are parcel St21 which covers the eastern side of the site and the adjacent open land as far as the urban edge, and parcel St24 which takes in the site's western side and much of the wider landscape of Bordon Hill. Parcel St21 is referred to as the gently rising lower slopes of Bordon Hill, and parcel St24 as the slopes and crest of the Hill described as a generally open area. The former is assessed as having high/medium sensitivity for housing, and the latter as having high sensitivity for this.
10. The appellant's appraisal of the landscape sensitivity of the site contends that a number of factors are influential in this. With respect to these, my observations confirmed that the site has a fair degree of visual containment by topography, dense woodland, mature boundary vegetation and built form. This separates it from parts of the wider landscape context. There is also a lack of notable landscape features within the site. In addition, although gently sloping, the majority of the site is below the 50m contour which defines the main basin of the town.

11. However, I consider that the character of the site is not so much part of the urban fringe as suggested by the appellant, being more strongly influenced by its agricultural surroundings. While there are adjacent residential properties, these are confined to the road frontage, with open rear areas along the site's boundaries. The appellant anticipates a transition in the immediate setting of the site through implementation of the permitted neighbouring housing development and its associated infrastructure. Without this neighbouring development in place, I consider that the site has considerably less of a relationship to the existing urban area than suggested by the appellant due to the separation from this by the swathe of undeveloped land to the east. On this basis, the sensitivity of the site to a change of the type proposed involving residential development at depth is appropriately identified at a level of at least high/medium rather than medium/low, and therefore closer to that attributed by the Council's Assessment study. This is notwithstanding that the study in itself has no policy status and in that respect carries limited weight. Although the division of the site by the study into two parcels appears somewhat arbitrary, it does reflect an increasing sensitivity towards the western side as the land level rises up to Bordon Hill. Taking these factors into account, and the importance of the Hill to the landscape setting of this side of the town, I consider that the site can appropriately be regarded as part of a valued landscape of the type recognised in the National Planning Policy Framework. In reaching this view I have also had regard to the various other landscape assessment documents referred to.
12. The proposal is for 2 storey residential development spread across most of the site, taking in an area of 5.17ha. On the western edge there would be an open space area of 1.83ha. New landscaping is proposed around the site's edges. A new centrally located main access from Evesham Road would be created, with a secondary emergency access to the west of this.
13. In referring to the impact of the proposal, the appellant relies strongly on parallels drawn with that of the neighbouring permitted development. However, several important points distinguish that scheme from the current proposal. Firstly, the neighbouring site is explicitly identified in the Stratford-on-Avon District Local Plan Review 2006 (LPR) by way of policies STR.2A and SUA.W, and the development was agreed by the Secretary of State to substantially accord with the LPR. Secondly, the part of the permitted scheme that neighbours the east side of the current site immediately abuts an existing part of the built-up area of the town. It is further from Bordon Hill and not on rising ground, and entirely within land parcel St21. Thirdly, the new housing development in the scheme is shown to be set back from Evesham Road, well behind the line of the existing retained frontage properties. Notwithstanding the proposed roundabout and other infrastructure, the Secretary of State agreed that with mitigation planting to the southern edge of the development there would be limited landscape harm. This finding matched the earlier assessment of the Local Plan Inspector. Against the background of the distinctions, the current scheme requires assessment on its own merits.
14. The appellant's Landscape and Visual Impact Assessment identifies a large number of potential viewpoints, with the Council mostly focussing on a few views relatively close to the site. Seen from the more distant viewpoints, I agree with the appellant that due to the effects of topography and screening by vegetation the proposal would produce either a negligible or low degree of

change. This includes the view from the south-east near to the racecourse, identified as of concern by the Council.

15. From the closer viewpoints, the appellant assesses the sensitivity of those on footpaths to the west, north and east of the site to be high, with which I agree due to the public use of these. The visual effects are assessed to be direct adverse, but with a magnitude of change at no more than medium and a significance of this no greater than moderate. However, for those views from the north and east, although there would be longer term mitigation by new planting, parts of the assessment take into account a degree of screening and inter-visibility arising from the permitted neighbouring development. Although to some extent the proposal would be seen against a background of existing residential development towards Bordon Hill, that is of a low density ribbon type on the road frontage with extensive vegetation to the rear. In contrast the proposal would for higher density suburban type housing extending to the full depth of the site. Certainly without the approved development in place, it would be perceived as a prominent, isolated peninsula of such housing that is incongruously detached from the main urban area. Appraised in this context I assess that there would be a moderate to high adverse effect that is of high significance.
16. In terms of the closer views from Evesham Road, I consider that the sensitivity of all of these is medium given the extent of use of the road corridor by those arriving at and leaving the town, rather than in part having the low sensitivity as ascribed by the appellant. The views moving through the corridor are of a dynamic nature. From the immediate south-east, depending on the precise position, the new housing would be seen against the skyline, in place of an open field rising up towards the Hill, despite the proposed amenity space on the upper slopes. The existing restaurant would no longer be the dominant visual element of built form, and there would be a curtailment of present open views of rising ground.
17. When alongside the site and further westwards, despite the proposed retained and new vegetation and the set back of development, the removal of vegetation for the creation of entrance openings with visibility splays would expose the new housing along the road corridor. Again in particular without the permitted neighbouring development being present, the views of dwellings would also reveal the isolated nature of the proposal as housing at depth on rising land in this location adjacent to the road. The visual effects would be exacerbated by the urbanising influences of signage and street lighting. The proposal would not significantly interfere with the long distance vista of the town approaching from the west, being essentially to one side of the key features in this. However, in these close views from the road there would be a substantial erosion of the existing undeveloped vegetated appearance of the site as part of the rising slopes on the edge of the town, which is a positive feature. The result would be at least a medium adverse change, which would be of considerable significance.
18. Assessed as such, the overall effect would be a substantial erosion of important landscape character in this location, with serious harm to the character and appearance of the area.
19. I recognise that with the permitted neighbouring development in place, the impact of the proposal would differ. There would an obstruction of the proposal

in some views, and in others it would be seen in conjunction with existing new housing development, thereby giving rise to less of a visual contrast. There would also be a shift in character of the location to a more urban fringe nature. The appellant describes the possibility of the approved development not being implemented as being most unlikely. Reference is made to information being submitted to discharge planning conditions and press reports of the developer acquiring land required for full implementation of the spine road, said to remove a previously identified potential constraint to delivery. The inclusion of the development in the Council's housing land supply assessment is also cited.

20. However, there are no details before me to indicate a firm commitment or programme of implementation for the development in the form permitted for the part neighbouring the appeal site. That development is substantial and complex, with a number of inter-related elements, and I consider that the Council reasonably raises the possibility of the development not going ahead. In the circumstances, I find that I have insufficient reassurance for the implementation of the permitted development to be relied upon in assessing the potential impact of the current scheme. I therefore give it little weight in my assessment of such impact.
21. Policy PR.1 of the LPR requires all development proposals to respect and, where possible, enhance the quality and character of the area. Proposals that would damage or destroy features which contribute to the distinctiveness of the local area will not be permitted unless significant public benefit would arise from the scheme. Having regard to the above assessment, I consider that the proposal would substantially harm such features. I address the balance of benefits under the final issue below.
22. Policy DEV.1 requires development proposals to have regard to the character and quality of the local area through the layout and design of new buildings. The Council has raised concern about the likely standard of the development in these respects, including having regard to the gradient of the site and the location of the proposed public open space. I consider that these are matters that could be satisfactorily addressed through the reserved matters and taking into account the planning obligation towards off-site recreation facilities. Nevertheless, there are other requirements of policy DEV.1 with which the proposal is in conflict having regard to the site's landscape significance as I have assessed it. These are (a) the extent to which the characteristics that define the locality are shared by the proposals (b) the manner in which the proposed development is integrated with the existing settlement including in terms of physical form and land uses (f) the extent to which important existing features on the site are retained or incorporated into the development. The policy requires that applications which fail to address adequately the above principles will not be permitted.
23. The Framework includes as a core planning principle that the different roles and character of different areas should be taken into account, recognising the intrinsic character and beauty of the countryside. It also indicates that the planning system should protect and enhance valued landscapes. Local planning authorities should set criteria based policies against which proposals for any development on or affecting landscape areas will be judged, making distinctions between the hierarchy of sites. Policy DEV.1 does not allow for a balance of landscape harm against benefits, which is a feature of the Framework and carried out below, but does provide criteria for assessment. I

consider that it and policy PR.1 are reasonably consistent with the Framework, and their weight as development plan policies is not significantly diminished by the Framework's policies.

### ***Heritage assets***

24. Shottery Conservation Area lies to the north of the site, separated from it by intervening agricultural land. It covers the older part of the village settlement on the west side of the town of Stratford-upon-Avon, and contains a large number of listed buildings. Its special interest is largely defined by these older buildings and the open spaces it contains, reflecting the early layout of the settlement. A feature of the Area, enhanced by its setting, is the linkage between the countryside and the town, with green space extending into this part of the built-up area. In both inward and outward views there is a visual connection between open farmland and the settlement which contributes to the Area's significance.
25. The pre-eminent building is the Grade I listed Anne Hathaway's Cottage together with the associated Grade 2 Registered Park and Garden. The Cottage is of international importance, with its architectural and historic interest as a building of medieval origin added to by its historic, artistic and associative links with Shakespeare. The Garden has historic and aesthetic interest, although its current appearance is largely derived from the early 20<sup>th</sup> century rather than Shakespeare's time. The Garden provides an established curtilage for the Cottage, which may be of medieval origin. It also creates a picturesque surrounding for the Cottage, enhancing the experience of the many visitors. Additional areas beyond the boundaries of the Garden including a plantation to the south are also open to visitors and contribute to the aesthetic qualities of the heritage assets. There are views from the Garden to the countryside beyond to the west. These are not designed views and they would not be sought out by all visitors to the Cottage site, but they are mentioned in the Garden designation. The open vista contributes to the rural quality of the site and enhances an associative link with an agricultural landscape which potentially retains some elements of early origin. The settings of the Cottage and Garden also include the more modern surrounding development through which most visitors approach.
26. The woods to the south-west of the Cottage screen inter-visibility between the Cottage and the appeal site. There is scope for some views south-westerly from the outer edges of the Garden towards the site beyond the line of this woodland. These are limited by an existing boundary vegetation screen, which is proposed to be enhanced, as well as the intervening distance. There could be views of built-form within the proposal, which would be nearer and more densely developed than that currently visible towards Bordon Hill. However, this is a peripheral view and at some distance. The new development would be much closer and more obvious from parts of the woods, but although open to visitors the woods are a considerably less important element of the setting of the Cottage and Garden in terms of the contribution to significance. The predominant rural outlook from these would be unaffected. With respect to the Conservation Area, in addition to the above effects, there would be some erosion of its countryside setting in views from the south-west, although again the more important agricultural periphery would not be affected.

27. Overall there would be a minor degree of harm to the significance of these designated heritage assets which, in the terminology of the Framework, would fall well below the threshold of substantial harm. Conservation of the assets nevertheless carries great weight, and the requirement under section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 is applicable. I apply the balance of benefit with the identified harm under the final issue. Due to this harm the requirements of policies EF.13 and EF.14 respectively on conservation areas and listed buildings are not fully complied with, although these policies do not seek to balance harm and benefits as set out in the Framework and therefore are not fully consistent with its approach.

### **Highways**

28. The proposal was found to be acceptable subject to conditions by the local highway authority at application stage, but matters relating to safety implications of the access arrangements have been raised by the Council.
29. The access would be a new priority 'T' junction off Evesham Road. The road has a 40mph speed limit in this location. The scheme was the subject of a Stage 1 Road Safety Audit. This made three recommendations: to remove the existing overtaking lane on Evesham Road and provide a protected right turn in the space provided; to provide a left turn deceleration lane on the eastbound approach; and to reduce the number of traffic lanes on the main carriageway. All three recommendations were included in revised plans submitted at application stage. The relevant details could be secured by conditions, with scope through the conditions process for minor improvements to the detailed layout geometry as illustrated in the appellant's further submitted plan.
30. The Council refers to standards set out in the Design Manual for Roads and Bridges. That is directed towards trunk roads, and Evesham Road is not a trunk road. The guidance contained in Manual for Streets 2 (MfS2) is more applicable.
31. The Council has submitted speed survey data to suggest that the design speed should be based on an 85<sup>th</sup> percentile speed of 43.9mph eastbound and 49.4mph westbound. However, it appears that the readings were taken at the top of the hill some 225m west of the proposed access. Speeds there are likely to be faster due to an increased distance from the 30mph restriction and the built-up area. In addition, it is not established that these are wet weather speeds, which would be around 2.5mph lower. The proposed access splay of 4.5 x 120m is likely to be adequate to provide for good visibility, despite the gradient. There is also nothing in the accident record, including as updated since the Transport Assessment (TA) was carried out, to indicate that the locality is inherently unsafe, given that there is no particular clustering in the location and type of accidents.
32. Nevertheless, it is an objective of MfS2 to design down vehicle speeds. In this location where actual speeds are uncertain, and could materially exceed the speed limit, such an approach would be appropriate. Funding would be provided through planning obligations towards a road traffic order amendment and signage to enable a reduction in the limit at the site location. I regard this as a necessary measure, with the obligations therefore accorded weight.
33. The submitted TA included an assessment of the likely traffic impact of the proposal that was sufficiently robust to allow for some variation in its

assumptions. Increased journey times in the vicinity as a result of additional vehicles at peak times would be only minor, and well short of the severe impact required in the Framework to warrant resisting development on transport grounds.

34. The site is sufficiently close to local facilities to enable alternatives to the private car to be realistic options, despite the gradient of the adjacent road. A new section of footway would be provided which could connect with existing pedestrian facilities. Provision is also made by way of a planning obligation for bus stop enhancements.
35. With appropriate conditions and obligations, the proposal would meet the safety and transport objectives of policy DEV.4 of the LPR.

### **Balance of harm and benefits and whether sustainable development**

36. According to paragraph 49 of the National Planning Policy Framework, relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.
37. The Council advises that it does not have a five-year housing land supply. Consequently it regards its policies for the supply of housing as being out-of-date. In this respect no policies relating to the distribution of housing have been cited against the proposal. Neither party has attempted to quantify the precise shortfall in five-year supply, but in the context of the requirement in the emerging local plan the appellant asserts that it is substantial. The Council has not contested this. There is no evidence to indicate that there is a foreseeable prospect of the shortfall being remedied. Against this background the proposed provision of 155 dwellings, which could be delivered within five years, carries substantial weight. Specifically the delivery of 35% of the units as affordable housing, whether secured by way of planning obligation, as the Council would prefer, or by condition, would be a significant benefit.
38. The Framework sets out a presumption in favour of sustainable development. Paragraph 14 indicates that, for decision-taking, this means, where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or specific policies in the Framework indicate development should be restricted.
39. The Framework indicates that there are three dimensions to sustainable development: economic, social and environmental.
40. The development would provide the economic and social benefits of new housing and affordable housing in accordance with the Framework, as referred to above, as well as investment, spending and payments as set out in the appellant's uncontested assessment. Supporting infrastructure would be provided, as the subject of planning obligations, which could also be of wider benefit.
41. The adverse impact on heritage assets would be a minor cultural social harm.
42. In environmental terms, there would be some new open space and footpath improvements. The site is reasonably well located from a sustainable travel



perspective, and there would be an acceptable transport impact. The loss of some 3ha of best and most versatile agricultural land would be an element of disbenefit. The serious harmful impact on a valued landscape would be a major adverse factor and contrary to the landscape principles of the Framework.

43. Overall, having regard to the importance carried by the last factor and the need to take full account of the environmental as well as the other dimensions, I consider that the proposal is not sustainable development.
44. With respect to the development plan, policy PR.1 allows benefits to be taken into account, but having regard to the above I consider that these do not override the harm. Together with the conflict with policy DEV.1, as a whole the proposal is not in accordance with the development plan.
45. With respect to paragraph 14 of the Framework, I find the adverse impacts of the proposal to significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
46. I recognise that the application was recommended for approval by Council officers. In reaching my conclusion I have accorded little weight to the adjacent permitted development for the reasons I have given above. This is based on the evidence before me. A change in such evidence or in other material factors could lead to a different balance of conclusions.

### **Conclusion**

47. For the reasons given above and having regard to all other matters raised I conclude that the appeal should be dismissed.

*T G Phillimore*

INSPECTOR