

Appeal made against the refusal of planning permission

Appeal reference	APP/P1805/A/11/2152467
Planning Application	10/0953-DMB
Proposal	Up to 212 dwellings with associated open space and infrastructure including a new vehicular access via Rutherford Road
Location	Land at St Godwald's Road, Bromsgrove
Ward	Tardebigge
Decision	Refused by Planning Committee (18th April 2011)

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Discussion

The proposal was for the erection of Up to 212 dwellings with associated open space and infrastructure including a new vehicular access via Rutherford Road.

The application was refused by Planning Committee on 18th April 2011, for the following reason as detailed below:

- The proposal would lead to unacceptable traffic implications and negatively impact on the amenities of existing residents by virtue of the generation of over capacity issues on the local highway network and the absence of adequate infrastructure to accommodate and ensure the free flow of traffic, contrary to policy T.1 of the Worcestershire County Structure Plan, policy DS13, criterion (h) of policy S7 and policy TR11 of the Bromsgrove District Local Plan and the guidance contained in PPS1, PPS3 and PPG13.

The Inspector found the main issue to be:

- Although not in dispute between the Council and appellant, there are local concerns about the principle of developing the site for housing. As such is residential development is acceptable in principle, having regard to development plan and national policy.
- The effects of traffic likely to be generated by the proposal, on the surrounding highway network, and thus on the amenities of existing residents of the area, having regard to the proposed mitigation measures.
- Whether or not the planning obligations now sought are justified.

The appellant initially agreed, in principle, to address these by means of Section 106 planning obligations, but now questions whether the requested contribution towards improved railway station facilities is justified.

The principle of residential development

In short, the Inspector raised no objection in principle to the use of the site for housing. Regard was paid to all the submissions on this issue, at the Inquiry and in the written representations from local people at both application and appeal stages, including a suggestion that the site would be better used for a new railway station and associated parking. Nonetheless, given that the site has already been assessed and identified as a potential housing site through the development plan process and, significantly, because there is a very severe shortage of land for housing in this District.

It was suggested that sites elsewhere in the District would be more suitable and sustainable for additional housing than the appeal site, and that the merits of alternative sites should be explored in the emerging Core Strategy. However, as the Inspector understood it, the 5-year supply relates to the whole of the District rather than individual parts of it, and paragraph 72 of PPS3 explicitly states that applications should not be refused solely on the grounds of prematurity.

Highway and traffic matters

Neither the Council nor the HA objected to the proposal on the grounds of highway safety. The Inspector considers that the proposal would not conflict with relevant SP, LP or national policy and that its effects in terms of traffic and the amenities of existing residents would not be so great as to justify refusing the proposal. This is on the basis of the proposed mitigation works, including the signal-controlled junction, being carried out. It is appreciated that, due to the consultation process involved, there is no guarantee of a TRO being made to remove the on-street parking to facilitate such works. However, as it is not the case that there is no prospect at all of this occurring, the Inspector feels the removal of the parking bays could reasonably be made the subject of a Grampian condition and required at the outset.

Planning obligations

The appellant's unilateral undertaking includes provisions to secure 35% of the development as affordable housing, together with financial contributions towards education facilities, improving air quality, and improvements to bus stops on New Road and Finstall Road, local public footpaths and off-site play space. The Inspector is satisfied that these obligations are necessary and reasonable to secure much-needed affordable housing, to mitigate the impacts of the additional housing and to promote more sustainable transport choices and that they meet the relevant tests in *Circular 05/2005 (Planning Obligations)* and Regulation 122 of the *Community Infrastructure (CIL) Regulations 2010*.

However, as already noted, the appellant then contested the HA's request for a sum of £318,000 towards improvements at Bromsgrove railway station, on the basis that there is insufficient justification for it.

Planning Policy Guidance Note 13: Transport makes it clear that planning obligations may be used to achieve improvements to public transport, walking and cycling facilities in order to encourage travel by modes other than the car.

A site visit confirmed that there is inadequate capacity between Bromsgrove and Birmingham to accommodate demand. Therefore, notwithstanding the appellant's submissions to the contrary, the Inspector accepts that the trains are often overcrowded.

The appellant's total estimate of £2.15 million was considered more than a little optimistic. However, as the appellant's approach is based on a reasonably calculated percentage uplift in passengers the Inspector was satisfied that, at least, £150,500 would be fairly and reasonably related in scale and kind to the proposed development, whether the existing station is improved or replaced. Thus I find that the appellant's obligation in relation to improved station facilities is necessary and complies with the CIL Regulation 122 tests.

Other matters and conclusions

Considering the topography of the site and its surroundings, the existing trees and hedging, and the scope for additional structural landscaping, the Inspector is satisfied that the development would be sufficiently contained in visual terms, without material harm to the surrounding landscape. It would not set any precedent for further extension of the urban area.

Reports submitted in support of the proposal address its impacts in terms of protected species and other wildlife, loss of habitats and trees, together with recommendations including mitigation measures. Although concerns were noted about loss of mature oak trees and of a former orchard area, these are matters which could be reconsidered at the reserved matters stage. Similarly, that part of the design and access statement relating to building layout and design should not constrain the opportunity, at the reserved matters stage, to achieve a higher quality of design, taking account of the consultation response of the Council's Urban Designer.

More detailed concerns, such as impacts on living conditions at individual existing dwellings, some localised flooding and measures to prevent any problems likely to arise from the adjacent sports fields, could all be addressed at the reserved matters stage. A point raised about land ownership is not a material planning consideration, but a private matter to be addressed between the parties concerned.

The Inspector understands the strength of local feelings about the proposal, not least in the light of the Government's commitment to localism. However this must be balanced against the Government housing policy objectives and its expectation that growth should be allowed wherever possible, except where key sustainable development principles would be compromised. There is insufficient reason to reject the proposal on the latter ground.

In addition, the proposal's effects in terms of traffic and the amenities of existing residents would not be so great as to justify refusal.

In conclusion

Therefore, having had regard to all other matters raised, the Inspector concludes that the appeal should succeed and that outline planning permission should be granted subject to the conditions listed in the schedule at the end of this decision, and to the obligations contained in the submitted unilateral undertaking.

Costs application

An application for costs was made against the Council, on the 03.02.2012.

This application for costs was **ALLOWED**.

The Inspector found the Council to have failed in supporting its decision in all respects. Thus it was found that unreasonable behaviour resulting in unnecessary expense, as described in Circular 03/2009, has been demonstrated and that a full award of costs is justified.

Appeal outcome

The appeal was **ALLOWED** (3rd February 2012).

Schedule of Conditions

- (1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any development begins and the development shall be carried out in accordance with the approved details.
- (2) Application for approval of the reserved matters shall be made to the Local Planning Authority not later than two years from the date of this permission.
- (3) The development hereby permitted shall be begun not later than two years from the date of approval of the last of the reserved matters to be approved.
- (4) The details submitted pursuant to condition 1 above shall broadly accord with the framework and parameters of the 'ASP5 Indicative Masterplan Rev.1' (dated 7th December 2010) and the Design and Access statement accompanying the application.
- (5) The details submitted pursuant to condition 1 shall include details of finished floor levels for all buildings and of finished ground levels for all other areas of the site. The details shall include sections to show the development hereby permitted relative to the levels of surrounding land and properties (including dwellings

fronting Clayton Drive, Scaife Road, Rutherford Road, St. Godwald's Road and Lower Gambolds Lane).

- (6) The details submitted pursuant to condition 1 shall include a plan identifying the number and location of the affordable housing units to be provided, together with details of their size, type and tenure.
- (7) The landscaping details submitted pursuant to condition 1 shall include a comprehensive landscaping scheme comprising the following:
 - (i) a tree survey / plan and an arboricultural method statement, identifying trees and hedges to be retained and any to be removed; details of any works to trees to be retained; and details of measures for the protection of trees to be retained throughout the construction period;
 - (ii) details of soft landscaping, to include plant schedules (noting species, sizes and numbers), planting plans and written specifications;
 - (iii) details of hard landscaping, to include treatment of car parking areas, footpaths, other vehicle and pedestrian circulation areas, and hard surfacing materials;
 - (iv) details of the positions, height, design and materials of all new boundary treatments;
 - (v) a programme detailing the timing and implementation of all aspects of the landscaping scheme.
- (8) No development shall take place until details of the location and treatment of all areas of communal public open space (including a woodland walk and wildlife meadow) have been submitted to and approved in writing by the local planning authority, together with a timescale for their provision. The areas identified as communal public open space shall be provided in accordance with the approved details, and retained as such thereafter.
- (9) No development shall take place until the locations and specifications for a Local Equipped Area of Play and Local Area of Play have been submitted to and approved in writing by the local planning authority, together with a timescale for their provision. The play areas shall be provided in accordance with the approved details.
- (10) No development shall take place until a Nature Conservation Management Plan has been submitted to and approved in writing by the local planning authority. The plan shall follow the recommendations of the RSK Ecological Baseline Report (June 2010), RSK Interim Phase 2 Ecology Report (June 2010), RSK Phase 2 Ecology Survey (November 2010) and Natural England's letter of October 2010. The Plan shall be implemented as approved unless otherwise approved in writing by the local planning authority.

- (11) No development shall take place until a noise attenuation scheme has been submitted to and approved in writing by the local planning authority, to protect from railway noise those dwellings and gardens abutting the railway land, and any with windows at second floor or above with a direct line of sight to the railway. None of these dwellings shall be occupied until the approved scheme has been fully implemented.
- (12) No development shall take place until a construction management plan has been submitted to and approved in writing by the local planning authority. The plan shall include details of: areas within the site to be used for loading, unloading and manoeuvring, for storage of materials and equipment (including fuels) and for parking for site personnel, operatives and visitors; wheel washing facilities; measures to minimise dust and noise from construction operations; construction traffic routes; a programme of works, including measures for traffic management and operating hours; provision of boundary hoarding and lighting. Development shall be carried out in accordance with the approved plan.
- (13) No development shall take place until a detailed remediation scheme has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details before any other development begins, unless otherwise agreed in writing by the local planning authority. On completion of the remediation scheme, and before any building is occupied, a verification report demonstrating the effectiveness of the remediation works carried out shall be submitted to and approved in writing by the local planning authority.
- (14) Should contamination that was not previously identified be found at any time during the course of development, an investigation, risk assessment and, where necessary, a remediation scheme shall be submitted to and approved in writing by the local planning authority. Any necessary remediation works shall be carried out in accordance with the approved details: on completion of these works, and before any building is occupied, a verification report demonstrating their effectiveness shall be submitted to and approved in writing by the local planning authority.
- (15) Notwithstanding the details contained in the RSK Utilities and Drainage Report (June 2010), no development shall take place until a fully detailed scheme for foul and surface water drainage and associated works has been submitted to and approved in writing by the local planning authority. The scheme shall incorporate sustainable drainage measures and the proposed balancing pond, together with a timetable for implementation. The scheme shall be implemented and thereafter maintained in accordance with the approved details.
- (16) No development shall take place until both existing on-street parking bays on Stoke Road have been removed in order to facilitate the junction improvement at the New Road / Stoke Road / Finstall Road junction.

- (17) No development shall take place until a detailed engineering design and specification for the junction improvement at the New Road / Stoke Road / Fininstall Road junction, including provisions for pedestrians and cyclists, has been submitted to and approved in writing by the local planning authority. The development shall not be occupied until this junction has been improved in accordance with the approved details.
- (18) No development shall take place until a detailed engineering specification for the junction improvement at the St. Godwald's Road / Fininstall Road junction (to accord with the details shown on drawing no. STH2369-003 Rev A) has been submitted to and approved in writing by the local planning authority. The development shall not be occupied until this junction has been improved in accordance with the approved details.
- (19) There shall be no vehicular access to the development hereby permitted other than via Rutherford Road.
- (20) No development shall take place until details and specifications for the construction of roads and footpaths within the development (including details of gradients, surfacing materials and method of surface water disposal) have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details. No dwelling shall be occupied until vehicular access to it, to wearing course level, has been provided in accordance with the approved details.
- (21) The development hereby permitted shall not be occupied until details of measures to restrict vehicular movements between it and the existing access, located between nos. 47/49/51 and nos. 53/55 Rutherford Road, have been submitted to and approved in writing by the local planning authority, together with a timescale for installing such measures. Access via this link shall be restricted to pedestrians, cyclists and emergency vehicles. Development shall be carried out in accordance with the approved details.
- (22) The development hereby permitted shall not be occupied until a travel plan promoting sustainable modes of access to and from the site has been submitted to and approved in writing by the local planning authority. The plan shall include clear and unambiguous objectives and modal split targets, together with a timescale for implementation, monitoring and review, based on the framework travel plan included with the Transport Assessment accompanying the application. The travel plan shall be implemented and operated thereafter as approved.

Recommendation

The Committee is asked to RESOLVE that the item of information be noted.