

TWC/2011/0575

Land to the South of, St Michaels Church, Waters Upton, Shropshire, TF6 6NP
Outline planning application for the erection of 8 No. dwellings with associated access and amenity space and church parking provision - Amended Plans

APPLICANT

John Brown

RECEIVED

13/07/2011

PARISH

Waters Upton

WARD

OFFICER Valerie Hulme

THIS APPLICATION SEEKS A DEED OF VARIATION TO THE EXISTING S106 AGREEMENT ASSOCIATED WITH THE APPROVED OUTLINE CONSENT

- 1.1 The Plans Board resolved in March 2013 to grant outline planning permission for the above development subject to a section 106 agreement that required the provision of 40% affordable housing, the provision of community parking facilities and the contribution of £5,000 towards a Traffic Regulation Order.
- 1.2 An application has now been submitted for the reserved matters application that provides full details of the access, appearance, landscaping, layout and scale, in addition to an application to vary a condition associated with the outline conditions relating to the visibility splay. In assessing the reserved matters application financial details have been provided to demonstrate that with the provision of the community car park, and the cost associated with developing the site, the requirement to provide 40% affordable dwellings (3 of the 8 units) makes the scheme undeliverable, showing a substantial negative land value. Consequently there is a need to review the elements of the scheme and the associated obligations through the S106 agreement.
- 1.3 Section 106A of the Town and Country Planning Act sets out the procedure for dealing with the modification and discharge of planning obligations where a formal application is made and formal consultation takes place and there is a right of appeal in respect of a refusal. However the formal procedure only applies where a section 106 agreement has been in place for 5 years so that is not the case here. However, section 106A (1) (a) does allow for a planning obligation to be modified or discharged by agreement between the parties to the Section 106 and this request falls into the category of a request to the Council to agree to the Section 106 agreement being discharged.
- 1.4 The NPPF recognises the deliverability of development may be compromised by the scale of planning obligations and other costs, and as such a viability assessment should be submitted to understand the particular circumstances of the site. Where an applicant is able to demonstrate to the satisfaction of the LPA that the planning obligation would cause the development to be unviable, the LPA should be flexible in seeking planning obligations. The guidance recognises that affordable housing can be the largest single item on housing development which should not be sought without regard to the current viability of individual sites.
- 1.5 A viability assessment for this site has therefore been submitted outlining the costs of development (build costs, abnormal costs, infrastructure costs, planning obligations, financial costs, and professional costs, including sales and legals). Following a review by the LPA it was considered that the proposed scheme was undeliverable;

therefore the opportunities to deliver a viable scheme sit with reducing the size of the car park or reducing the provision of the affordable housing.

- 1.6 The S106 agreement also required the delivery of the community car park, to be transferred to the parish council; this left the maintenance costs for the transfer open with the application and the parish to negotiate. During this application and consideration of the financial appraisal, it has been agreed that the applicant will provide £45,000 to the Parish Council towards the maintenance of the car park
- 1.7 The provision of the community car park which will be transferred to the parish council, is in a location that abuts the church; this will not only provide a safe accessible parking facility for events at the church, but will go further and supporting this community use, ensuring the longevity of the facility. The scale and location of this facility therefore has significant weight as this would not be provided in any other developments that may come forward in the village, and as such is considered that the balance sits in favour of the community facility over the provision of onsite affordable housing. Consequently the viability appraisal assesses the implications of not only the affordable housing but also the build costs associated with various layouts for the reserved matters application. Having reviewed the assessment, the LPA concurs with its conclusions that the scheme is only viable with the absence of any affordable housing obligations, and build costs associated with a scheme which retains the existing wall, with a pathway behind.
- 1.8 Accordingly it is therefore considered that the S106 should be varied to take account of the financial costs associated with the scheme and ensure the deliverability of the approved planning consent in accordance with the guidance contained within the NPPF, and the associated planning guidance.

2. Recommendation:

- 2.1 It is recommended that the Committee AGREE to a deed of variation to the S106 agreement signed by the parties on 12th August 2013, to:
 - a. remove the requirement to provide affordable housing,
 - b. pay £45,000 to the Parish Council on the transfer of land for the maintenance of the community car park, associated pathways, walls and verge

NB for the avoidance of doubt the other clause for the provision of £5000 towards the Traffic regulation order remains unaltered; and indexation for point b above is taken from the date of this resolution.

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THE APPLICATION WAS CONSIDERED BY PLANS BOARD MEMBERS ON THE 27TH FEBRUARY AND DEFERRED FOR A SITE VISIT.

OBJECTIONS RECEIVED: Yes

MAIN ISSUES: Policy, suitability of site for development, design and access.

PROPOSAL: The original application was for a residential development for 24 units, including affordable housing, amenity and parking areas to serve the village. All matters were reserved for later approval.

The application would also include the removal of the existing redundant silos and agricultural buildings.

Following concerns with regard to the extent of development, the application was amended, revising the site boundaries and reducing the quantity to the development of 8 residential units of which 40 % would be affordable, and the provision of parking facilities to serve the community. All matters are reserved for later approval; however an indicative layout has been submitted which shows the relocation of an access point along the western boundary, providing a single access point which also serves the existing agricultural fields which abut the southern boundaries of the site. The proposal would retain the existing sandstone wall which acts as the northern boundary of the site, and the existing TPO'd trees along the western boundary.

SITE & SURROUNDINGS

The site is currently unused but has previously been occupied for agricultural purposes and a number of disused storage silos and a fire damaged barn remain. The application site has been revised during the application process to the northern end of the field.

The site is relatively level ground covering approximately 0.47 ha, it includes a small access track through the centre of the site.

The site is bounded to the north by a sandstone wall acting as the southern boundary to St Michaels Church and the White House, both of which are Listed Buildings. To the south there is a line of detached dwellings fronting the highway. To the west of the site at the front, the site directly abuts the main road through the village, providing an existing access point, and is bounded by a sandstone wall whilst to the rear lies a brick wall and open fields beyond. A number of trees are sited along the western boundary of the site, of which three are subject to a TPO.

The surrounding area is predominantly residential, and is located relatively central to the village, approximately 7 miles to the north west of Telford.

HISTORY:

W2007/1688 Erection of two units; outline granted subject to the provision of one affordable dwelling 13/07/2010

W2007/1099 Residential development (outline) withdrawn 02/11/2007

POLICIES:

Telford & Wrekin Core Strategy DPD 2007

National Planning Guidance

National Planning Policy Framework

Saved Wrekin Local Plan Policies

UD2 Design Criteria

H10 Scale of Development

H24 Affordable Housing Rural Exceptions Policy

LDF Core Strategy

CS1 Homes

CS7 Rural Area

CS10 Community Facilities

CS13

CS14 Cultural, Historic and Built Environment

CS15 Urban Design

CONSULTATION RESPONSES:

Waters Upton Parish Council: Originally objected on grounds of extensive development, having a major impact on the community and the village. Objections include:

- village already increased by 50% over past 10 years
- Existing consent for 16 units in the village still to be built
- Number of properties could produce 50 plus vehicle movements twice a day
- The access is on a narrow road, with no footpaths and poor visibility and opposite a junction, this creating a dangerous crossroads
- Is there evidence of a need for further properties, private and social housing, due to the fact there are a number of empty properties already in the village.
- The central area of the village is built on sandstone – concerns over drainage
- The village currently suffers from the effects of excessive traffic, both in numbers and size; development would add to these dangers and includes no traffic management to address these concerns
- The local school is at capacity
- There is no regular bus service
- The site shows a shared access, along a right of way route, to be used by pedestrians vehicles and farm machinery
- Even if the development is phased, to ensure a need prior to construction, this will mean the village could be disrupted for 15 years
- This central area of the village has an essential green space, which should be preserved – it includes a right of way and picturesque sandstone walls, beautiful trees – this part of the development site should be protected from development, although the old stackyard, with redundant barn and corn hoppers would benefit from some limited development.

Following submission of a revised site area and numbers the parish continue the objection, stating there remains strong concerns:

- Access, in a location where two roads meet, there is no footway and poor visibility. The site will have agricultural access through the residential area, which is dangerous and causes further concerns when vehicles leave the site; in addition the pedestrian right of way will share this access increasing dangers.
- Sandstone walls – within the centre of the village there is a wish for these to be retained.
- The previous application for 22 units used the entire site area of the old stackyard and the adjacent field; whilst the new application uses only the old stackyard the site still opens up the remainder of the field for future development.
- Parish welcome the church car park but concerned over location which is at the end of the site.
- Communal green space is no longer available.
- Wish to remind members of the front runner for the Vanguard Project, working towards a neighbourhood plan. Granting this may contradict the plan.
- Parish maintain the local housing needs register and at this time there is no identified need for more affordable homes.

Drainage: Support subject to conditions relating to soakaways, foul and surface water details and green field run off rates

Contaminated Land (Environmental Health): no objections subject to informatives relating to land contamination

Sustainability: No objections; comment that the proposal provides some very positive sustainability aspects of the development, including code 3 for sustainable homes, layout to comply with lifetime home standards, use of zero or low carbon technology such as solar water heating panels, ground source heat pumps, or air source heat pumps. Rainwater harvesting / water butts and cycle storage. Suggesting code 3 is conditioned as a minimum.

Arboriculture: Originally objected due to the site layout and the loss of tree from the proposed access. Lime trees adjacent to the road along the boundary area subject to a 1995 TPO including the lime adjacent to Cedar Lodge, with no reason for their removal. Following revised plans, a sandstone wall is to be removed from within the root protection area of one of the TPO'd lime trees, creating a new pedestrian path within centimetres of the trunk, changing the rooting environment for tree and subsequent change in soil level; without further information there is insufficient information to support the application and continue to object.

Ecology: Originally object due to lack of ecology surveys for the site. Following additional information now raises no objection subject to a number of bird boxes, and informatives with regard to vegetation, replacement planting and lighting.

Highways: Originally objected, whilst in outline form the proposed access fails to provide sufficient visibility splays; any access point on this frontage would also fail to achieve a 2.4m x 42m visibility splay. Suggesting a speed survey may indicate less than a 42m splay. Considers the site is in an unsustainable location with limited pedestrian, cycle, bus connectivity or availability of local services. Following submission of a Transport assessment, considers the concerns previously highlighted can be addressed through various mitigation measures, which includes the 2.4m x 43m visibility splay, details of the public right of way through the site to accompany the reserve matters application, and a S106 contribution of £5,000 for a Traffic regulation order onto River Lane and village Gateway scheme to the north of the site, reminding motorists they are within a 30mph rural location.

Built Heritage and conservation: Originally objected on the grounds of encroachment to the two listed buildings St Michael's church and the White House, with no clear consideration of the impact on the setting of the listed buildings. The proposed layouts come too close to the southern boundary of both buildings. To preserve this area consideration should be made to some green areas between the listed buildings to prevent the effect of urban growth right up to the boundary. Concerns over boundary treatments given the character stone walls, alterations and partial removal causes concerns. Any house types and designs should take account of this setting. Following receipt of revised plans, improvements have been made to the setting of the listed building's however retains some concerns over the effect on boundary treatments due to lack of detail at outline stage. Building designs should reflect prevailing form of Waters Upton rather than modern.

Strategic Housing: originally objected on the grounds there is only a need for 9 affordable housing units, based on current data of existing planning consents there is only a need for a further 3 units. If the proposal was reduced to meet this remaining need, no more than 8 units should come forward providing 40% affordable housing meeting the requirements of CS7.

Parks and open space: No objection, Originally stated no requirement for a 2nd play area within the village, and requests a contribution of £600 per unit towards off site facilities; following reduction of number of units, under the threshold however requests a small sum towards the new play area.

Education: originally requested contributions for 24 houses of £38710 towards primary education facilities.

Shropshire Fire: No objection subject to informatives relating to access, water supplies and sprinklers.

Local representations were originally received from 3 neighbouring properties raising concerns over:

- Boundary walls, currently remnants of the side of a building, require these boundaries are kept to at least 3m high, in sandstone
- Number of properties proposed; three larger properties would be more appropriate; number of properties already approved in Waters Upton
- The access to the site, with speeding traffic and parking during church events.
- Increased traffic
- Large farm vehicles using the access point
- Use of sandstone as a building material replicating the character of the area
- Impact on wildlife, birds and bats which are present in the area
- Farm been left to deliberately run down, feeling Waters Upton residents pay for the fire.
- Consider all future buildings should be restricted to the A442 so that it does not impact the village so negatively.

Following receipt of the revised plans, one local objection has been received raising concerns on the grounds of:

- Retaining suitable sandstone wall boundaries to properties to minimise the potential of being overlooked.
- Water supply from borehole which must not be disrupted
- Highways authority should be aware that the entrance to the site will be a real danger, due to limited visibility and speeding vehicles
- Whilst there may be housing need, number of houses in the area remain on market after several years, in addition to existing 19 within the village that have consents and remain to be built.

PLANNING CONSIDERATIONS:

The site is located within the centre of Waters Upton, one of three settlements identified in the adopted Core Strategy as an area where rural development will be focused to meet the needs of the area. Policy CS1 of the Core Strategy however limits the number of new dwellings in the rural area that can be developed during the period 2006 to 2016 to a maximum of only 170 properties. At the current time this threshold has been met from dwellings already built or having received planning permission. Consideration is also given to the up to date housing need survey published in March 2011 which outlines a need for 3 further affordable housing units, over those which have planning consents. Furthermore at a national level at the time of submission PPS7 Sustainable development within the rural area, sought to control and limit rural development. Furthermore the principle of development has previously been established on part of the site adjacent to the highway, providing 2 units; this proposal increases the site area and the quantity of development.

The original submission for a larger site proposed to provide up to 24 units on partially developed ground, with 40% allocated as affordable homes. Concerns were made to the applicant with regard to the extent of development, going beyond the quantity of development outlined in both policy H10 of the Wrekin Local plan which supports infill development of 1-2 units within the identified suitable settlements and policy H24 for affordable exception sites limiting developments within the rural area to approximately 8 units where supported by an up to date housing survey.

Since this time there has been a significant change to planning policy at a national level, following the replacement of all planning policy guidance notes and planning statements with the National Planning Policy Framework. The replacement document has now been in place for nearly 12 months, with a strong emphasis on the delivery of development; it asserts that LPA's should support strong, vibrant and healthy communities by providing a support of

housing required to meet the needs of present and future generations, and by creating a high quality built environment. Housing applications should be considered in the context of the presumption in favour of sustainable development. It also states that LPA's should promote sustainable development in rural areas and housing should be located where it will enhance or maintain the vitality of rural communities. Weight is also given to the adoption of the NPPF, which reduced the weight given to Local Plans which are out of date, judging applications on the degree of conformity to the NPPF, and a presumption in favour of sustainability. The Wrekin Local Plan saved policies therefore have to be given less weight when considering planning applications, subsequently policies H10, and H24 carry less weight than they once did, by virtue of the NPPF and the more up to date core strategy.

The applicant subsequently revised the application at the end of 2012, reducing the proposal to only 8 units, of which 3 (40%) will be affordable. Whilst an objection was previously received from Strategic Housing due to the quantity of development, the amendments are in line with the recommendation to provide up to the current need. Although policy CS7 of the core strategy request the delivery of 40% affordable housing, it has been demonstrated through appeal decisions that the requirement for affordable housing in the rural area should not be requested on sites less than 15 units; thus the provision of 3 affordable units, suggested by the applicant is above what is necessary to meet the provisions of CS7, however it does provide significant justification for the development taking account of rural housing numbers.

The location of the development is within the heart of the village, and its boundaries have been adjusted to include the redundant agricultural buildings, which are situated immediately adjacent to two statutory listed buildings. It is considered subject to sensitive development; the proposal will preserve and enhance the setting, removing the fire damaged barn which currently causes harm. Accordingly the principle of the reduced level of development is considered acceptable. It is noted that there are concerns with regard to the sandstone wall from both local representations and the Conservation officer, in addition to the design of the buildings, however in its outline stage it is considered these can be adequately controlled through conditions and on approval of the later reserved matters application. Furthermore taking account of the ground levels of the site, orientations of buildings, distance separation and amenity areas, it is considered the development will not adversely effect the residential amenities of proposed or existing neighbouring properties.

The proposal in its outline form is accompanied by an indicative layout, which suggests a new vehicular access directly off the main highway, to the south of the existing access, and the creation of a footpath adjacent to the sites boundary with the highway, providing a safe access to the adjacent church. The Highways officer is now satisfied with the amendments and has raised no objection subject to conditions and financial contribution of £5,000 towards a Traffic regulation order through the village. It is also noted that the site previously provided the adjacent church with public parking for special events at the church or other community events, however following an act of vandalism on the site, public liability is not covered under the landowners insurance, and the informal parking facilities have been removed for some time. As this was informal nature, the principle of development is acceptable; however the applicant is willing to provide a minimum of 10 parking spaces to be transferred to the Parish Council to maintain, providing community facilities. It is therefore considered that the site can be adequately accessed and the proposed development will not adversely prejudice the safety and free flow of highway users.

Contributions towards primary education and off site leisure and recreation facilities are requested on sites of 10 units or more; in this case these would have been necessary on a development of 24 units, however the application is below the threshold and as such no contribution is required. Whilst a requested for a small contribution towards off site play facilities is maintained from Parks and Open spaces, it is considered that the benefits of the

community parking facilities provided by the applicant outweigh this request, and subsequently have not been pursued.

The site has the presence of three TPO'd trees, one of which may be effected by the proposed access point. Whilst the applicant has still failed to address the issues of the arboricultural officer it is considered there are means of creating the access point without harm to the tree, including some small adjustments to the layout, the materials or methods of construction. This can be adequately controlled and considered further through condition to be supported in any reserve matters approval, taking account that it is only the principle of development which is currently under consideration.

Whilst the proposal will develop an agricultural site, it is considered the proposal will not harm the natural habitats of current wildlife. Comments from the ecologist are noted, and improvements can be made through conditions; including the installation of 14 bird boxes.

It is also considered that the site can be adequately drained, and there are no concerns with regard to potential land contamination. Neighboring uses are relatively minimal and there are no concerns on the proposed residential uses of the site from adjacent uses in terms of noise, dust or contamination.

In conclusion it is considered that the principle of development is acceptable within the identified settlement of Waters Upton where new development in the rural area will be focused. The proposal will provide 40% affordable housing meeting the current identified need for the settlement, in addition to the provision of some community parking facilities; furthermore the proposal will remove the redundant agricultural buildings, improving the setting of the adjacent listed buildings to the north of the site. With the provision of £5,000 towards a traffic regulation order, the proposal will not prejudice the safety or free flow of highway users. It is considered through appropriate conditioning and submission of appropriate reserved matters application that the site can provide a scheme which will not harm the visual amenities or character of the area, nor harm the setting of the listed buildings and the impact to any flora and fauna can be appropriately mitigated against.

RECOMMENDATION: GRANT OUTLINE PERMISSION subject to the applicant entering into a S106 agreement to provide 40% affordable housing, the provision of community parking facilities and the contribution of £5,000 towards a Traffic Regulation Order, grant delegated authority to the Manager of Development Management subject to the following conditions:

1. A01 Standard Outline
2. A2 Submission of Reserved Matters
3. B10 Details of Materials
4. B12 Sample Brick Panel
5. B019 Details of windows and doors
6. B42 Parking/Turning/Loading
7. B61 Foul and Surface Water, Greenfield run off rates
8. Bcustom Soakaways
9. B121 Landscaping Design.
10. B122 Tree Survey
11. Bcustom Tree Protective Fencing/ no dig methods/ services.
12. Bcustom Visibility splays
13. C07 Windows set in 75mm
14. C38 Development in accordance
15. Ccustom bird boxes
16. Custom protection and retention of sandstone wall
17. D01 Removal of PD

Reason for approval

The Local Planning Authority considers that the principle of development is acceptable within the identified settlement of Waters Upton where new development in the rural area will be focused. The proposal will provide 40% affordable housing meeting the current identified need for the settlement, in addition to the provision of some community parking facilities; furthermore the proposal will remove the redundant agricultural buildings, improving the setting of the adjacent listed buildings to the north of the site. The proposal will not prejudice the safety or free flow of highway users. It is considered through appropriate conditioning and submission of appropriate reserved matters application that the site can provide a scheme which will not harm the visual amenities or character of the area, nor harm the setting of the listed buildings and the impact to any flora and fauna can be appropriately mitigated against.