



Appeal Decision

Inquiry held on 10, 11, 12, 13, 17 and 18 January 2012

Site visit made on 18 January 2012

by Jessica Graham BA(Hons) PgDipl

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

Decision date: 21 February 2012

Appeal Ref: APP/Q4625/A/11/2157515

Land known as Moat House Farm, Elmdon Road, Marston Green

- 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 Persimmon Homes Ltd against the decision of Solihull Metropolitan Borough Council.
 - The application Ref 2011/154, dated 1 February 2011, was refused by notice dated 8 July 2011.
 - The development proposed is the construction of 125 dwellings with associated car parking, access, infrastructure provision and open space.
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Decision

1. The appeal is allowed and planning permission is granted for the construction of 125 dwellings with associated car parking, access, infrastructure provision and open space on land known as Moat House Farm at Elmdon Road, Marston Green in accordance with the terms of the application, Ref 2011/154, dated 1 February 2011, subject to the conditions set out in the schedule attached as Appendix 1 to this decision.

Procedural matter

2. At the inquiry, the appellant submitted a duly executed S.106 Undertaking. I discuss its content and implications in the section headed 'Infrastructure' below.

Main Issues

3. The main issues in this appeal can be summarised as
 - (a) whether residential development of the site is justified at this time;
 - (b) the effect that the proposed development would have upon the character and appearance of the area; and
 - (c) whether the proposal makes adequate provision for mitigating any adverse impact it would have upon local services and infrastructure.

Reasons

4. Policies H2 and H2/1 of the Solihull Unitary Development Plan (2006) specifically identify twelve sites "to help meet long-term (i.e. post 2011) housing needs". The current appeal site is one of them.

- proposed dwellings were occupied. As discussed above in the context of the five year housing land supply, the draft status of the emerging Local Plan limits any certainty that can be placed on the deliverability of sites it identifies for housing. Further, it is the GPs, as owners of the existing surgery, not the Council or the PCT, who would need to satisfy themselves that the proposed new site could meet their needs, and who would be responsible for sorting out the necessary funding to acquire and develop it. There is no evidence as to the GPs' views on the suitability of the proposed Chelmsley Lane site, or their intention and ability to fund the relocation of their surgery to that location, never mind any reliable indication of the likely timescales involved.
55. Equally, however, I do not share the Council's somewhat pessimistic view that in the absence of a certain solution to the capacity problem within a guaranteed timescale, the only course of action is to refuse planning permission for the currently proposed development. Beyond facilitating the provision of a site, the planning system cannot be held responsible for the expansion of the existing healthcare infrastructure; that is a matter for the GPs and the PCT. But the planning system can and should be held responsible for providing sufficient quantities of housing. The PCT, in turn, has a statutory duty to provide the population with access to healthcare.
56. I agree with the Council that requesting a financial contribution toward health infrastructure from the appellant, through the mechanism of a S.106 planning obligation, would be inappropriate; since the use to which such a financial contribution would be put is currently unknown, it could not meet the tests of CIL Regulation 122. In any event, advice in Circular 05/2005 *Planning Obligations* explains that while developers may reasonably be expected to pay for infrastructure provision which would not have been necessary but for their development, planning obligations should not be used to resolve existing deficiencies in infrastructure provision.
57. To conclude on the third main issue then, I find that the appellant has done all it reasonably can to make adequate provision for mitigating any adverse impact the proposed development would have upon local services and infrastructure. The S.106 Undertaking addresses the need to provide affordable housing, open space, and a contribution toward education, but as the Council agrees, there is no reasonable means by which the Undertaking might address the impact of the development upon the provision of healthcare.
58. A planning obligation is not the appropriate mechanism through which to resolve the pre-existing shortfall in healthcare capacity, which will need to be addressed in any event. In my judgment, the increased strain that the proposed development would place upon the already pressured healthcare infrastructure in Marston Green is not, of itself, sufficient reason to refuse planning permission outright for the proposed development; rather, it is one of the many material considerations to be weighed in the overall planning balance.

Other matters

59. Local residents drew my attention to existing parking problems at Marston Green, including the station, village centre, and the streets that would function as access roads in to the development. However, parking provision made within the new development would meet the Council's required standards, and the location of the new dwellings within walking distance of a range of local