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## Appeal Decision

Site visit made on 10 August 2020

**by Jonathan Edwards BSc(Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 13 August 2020**

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**Appeal Ref: APP/T3725/W/20/3250201**

**Land at The Valley, Radford Semele, Leamington Spa CV31 1UZ**

- 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 Mr Arjang Aghdasi-Sisan against the decision of Warwick District Council.
  - The application Ref W/19/1772, dated 15 October 2019, was refused by notice dated 10 December 2019.
  - The development proposed is erection of a dormer bungalow along with creation of access and parking and associated drainage infrastructure.
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### Decision

1. The appeal is dismissed.

### Procedural Matter

2. Reference has been made to an emerging Radford Semele Neighbourhood Plan. However, I attach little weight to this document as it is still being prepared and its policies may change prior to adoption.

### Main Issues

3. The main issues are (i) the effect on the character and appearance of the area, (ii) whether the proposal would be in a suitable location having regard to the policies of the development plan, and (iii) whether safe access to and egress from the development can be secured during a flood event.

### Reasons

#### *Character and appearance*

4. The site lies at the end of The Valley, adjacent to a property called Tinker's Close and a public right of way. A line of houses runs along one side of The Valley but stops a noticeable distance short of the site. While it does not form part of a designated landscape, the area has an attractive rural or semi-rural character due to the narrow width of the road, presence of trees and hedgerows and views of fields. While Tinker's Close includes a dwelling, the pasture land to the front and side and its timber clad outbuildings give the property a rural appearance. The general openness of the appeal site contributes positively to the character of the area.
5. While parts of the site would remain undeveloped, the proposal would significantly reduce its openness and would undermine the rurality of the area through the introduction of a residential development. Due to the separation

and intervening vegetation, the proposed dwelling would not be clearly seen with the line of properties along The Valley. As such, rather than an infill development, it would appear as an encroachment into open land that forms part of the wider network of fields around Radford Semele. The proposal would represent the erosion of a pocket of pasture land, identified as one of the key characteristics of the Dunsmore Plateau Fringe local landscape type. Consequently, it would be contrary to the provisions of the Warwickshire Landscape Guidelines (WLG).

6. Local topography and existing vegetation would limit the public vantage points from where the proposal would be seen. Nevertheless, it would be visible at close proximity at the end of The Valley where it meets the footpath. From this viewpoint the proposal would appear closer and more prominent than the house at Tinker's Close. The development would also be seen through gaps in the hedgerow from the public footpath on higher land to the east of the site, albeit from these points it would be further away and lower than the adjacent dwelling. The proposal would also be seen at close proximity from the private land at Tinker's Close itself.
7. Limited information has been provided on the proposed planting and the scope for significant vegetation on parts of the site would appear to be restricted by the proximity of the development to the side boundaries. In any event, there would still be views of the proposal through the access gap. As such, I am unconvinced that new planting would significantly add to the screening effect of existing vegetation.
8. The proposed planting could make a limited positive contribution to the character of the area and the traditional style of the dwelling would be in keeping with nearby properties. However, these aspects of the development would not address the loss of openness and would not ensure the proposal harmonises with the rural nature of the locality.
9. For the above reasons, I conclude the proposal would harm the character and appearance of the area. As such, in this regard, it would be contrary to policy BE1 of the Warwick District Local Plan 2017 (LP), the WLG and National Planning Policy Framework (the Framework). These all aim, amongst other things, to ensure development contributes positively to the quality of its environment and is sympathetic to local character.

#### *Suitability of location*

10. LP policy DS4 sets out a spatial strategy for development and refers to LP policy H1 that lists the circumstances where housing will be permitted. The appeal site is not in an urban area or allocated for housing and it is outside and not adjacent to the defined Radford Semele growth village boundary. As it would also not fall within any of the development categories in part e) of the policy, the proposal would be contrary to LP policy H1 when read as a whole.
11. As a self-build house, the appellant suggests LP policy H15 allows the proposal as it does not explicitly require such development to be within the boundaries of growth villages. However, policy H15 requires compliance with all other relevant LP policies which would include policy H1. Part d) of policy H1 allows development that would contribute to an identified need such as for self-build housing but only where the site is adjacent to the boundary of a growth village.

As it would fail to fully comply with the circumstances set out under LP policy H1 part d), the proposal would also not comply with LP policy H15.

12. The development would be small scale and within a reasonable walking distance of services. Also, it would not be isolated housing which is resisted by the Framework except in certain circumstances. However, these factors do not fully address the non-compliance with LP policy H1. As such, I conclude the proposal would not be in a suitable location having regards to development plan policies.

#### *Access and egress during a flood event*

13. The Valley is identified as having an elevated risk of surface water flooding and occupiers and visitors would normally rely on this route for access to and egress from the proposal. Even so, the Warwickshire County Council flood risk management officer raises no objections to the development but suggests an evacuation plan be produced. While no such plan has been provided, there is no substantive evidence before me that indicates the height of flooding or risk to those using The Valley would entirely prevent movement to and from the proposal in a flood event. As such, an evacuation plan could be secured through an appropriately worded planning condition.
14. Therefore, safe access to and egress from the development can be secured during a flood event and in this regard the proposal would comply with LP policy FW1. This aims, amongst other things, to ensure development is resilient to flooding and has safe dry access for vehicles and pedestrians.

#### *Other considerations and planning balance*

15. The proposal raises no substantiated concerns in respect of ground contamination, highway safety or capacity, water consumption, noise, drainage, waste management or effects on the living conditions of occupiers of nearby properties. Acceptability in these regards is a neutral factor in my assessment.
16. There is no evidence that shows the site has been the subject of fly-tipping or trespass so the proposal would serve little benefit in addressing such issues. The biodiversity interest of the site could be preserved through the imposition of planning conditions but there is little evidence to support the claimed gain to biodiversity through the introduction of planting or bat and bird boxes. As such, I attach only limited weight to this benefit.
17. While not referred to in the description, the appeal documents indicate the proposal would be a self-build house. The evidence indicates the appellant is on the Council's self build register to which I have regard to in my assessment. However, there is no undertaking or agreement before me that would secure the construction and occupation of the proposal by the appellant and no suggestion has been made as to how this could be secured otherwise. The appellant contends the Council is failing in its duty to give suitable development permission to meet the demand for self-build housebuilding<sup>1</sup>. However, even if this argument is accepted and the proposal was provided as a self-build dwelling for the appellant, the benefit in terms of addressing the overall demand would be modest as only a single unit is proposed.

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<sup>1</sup> Section 2A of the Self Building and Custom Housebuilding Act 2015.

18. Irrespective as to whether the proposal would be a self-build house, it would contribute to the housing stock and provide employment during its construction. Also, it is likely that future occupiers would provide support to local businesses and facilities. However, the benefits in these regards would be modest given the scale of the proposal.
19. The appellant disputes the Council's claim that a 5 year housing land supply can be demonstrated, indicating at worse a 3.08 year supply and at best a 4.82 year supply. If the appellant's case in this regard was to be accepted, the relevant development plan policies most important for determining the application would be deemed out-of-date under the provisions of paragraph 11 of the Framework. In such circumstances, planning permission should be granted unless the adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the Framework as a whole.
20. The harm caused by the proposal to the character and appearance of the area would be contrary to paragraphs 127 a) and c) as well as paragraph 170 of the Framework which looks to ensure development recognises the intrinsic beauty of the countryside. Paragraph 130 of the Framework states that planning permission should be refused for development that fails to take the opportunity to improve the character and quality of an area and so I attach significant weight to the harm caused in this respect.
21. Consequently, even if I were to conclude there is a shortfall in the five-year housing land supply on the scale suggested by the appellant, the adverse impacts of granting permission would significantly and demonstrably outweigh the modest benefits of the proposal. As such, the presumption in favour of sustainable development as set out at paragraph 11 d) of the Framework does not apply in this case.

### **Conclusion**

22. While I have found that safe access and egress could be secured during a flood event, the proposal would be at odds with the development plan policies in terms of the effect on the character and appearance of the area and the suitability of the site's location. The proposal would conflict with the development plan when read as a whole and the overall benefits and other considerations do not lead me to a decision other than in accordance with development plan policies. As such, I conclude the appeal should be dismissed

*Jonathan Edwards*

INSPECTOR