The Planning Inspectorate

Appeal Decisions

Site visit made on 5 October 2017

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

Decision date: 08 November 2017

Appeal A: APP/H1840/W/17/3177663
Land to West of Chapel Road, Chapel Road, Pebworth, Stratford upon Avon CV37 8XJ

- 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 Rooftop Housing Association against the decision of Wychavon District Council.
- The application Ref W/16/01928/PN, dated 2 August 2016, was refused by notice dated 17 January 2017.
- The development proposed is rural exception housing development (14 dwellings) with associated access and landscaping.

Appeal B: APP/H1840/W/17/3177678
Land to West of Chapel Road, Chapel Road, Pebworth, Stratford upon Avon CV37 8XJ

- 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 Rooftop Housing Association against the decision of Wychavon District Council.
- The application Ref 17/00373/FUL, dated 20 February 2017, was refused by notice dated 17 May 2017.
- The development proposed is rural exception housing development (12 dwellings) with associated access and landscaping.

Decision

1. Appeal A is dismissed and Appeal B is dismissed.

Application for costs

2. An application for costs was made by Rooftop Housing Association against Wychavon District Council. This application is the subject of a separate Decision.

Procedural Matter

3. For ease of reference I refer to the different cases as Appeals A and B in this decision letter as set out in the above headers. I have dealt with each appeal on its individual merits but to avoid duplication have considered the proposals together in this document. Although there are two appeals, I have used singular terms in places for ease of reading.

Main Issues

4. The main issues are whether or not the proposal can be considered as a rural exception site for residential development in the open countryside in respect of the provision for affordable housing; and whether or not the proposed development would represent an over-development of the site, having regard to average net density figures for villages set out in the development plan, accessibility to facilities and services for day to day living, and the suitability of available infrastructure.

Reasons

Main issues

5. The site is mainly located in the countryside, being largely outside of the village settlement boundary, where residential development is not normally permitted. However, policies SWDP2 and SWDP16 of the South Worcestershire Development Plan (the Development Plan) together set out, amongst other things, that rural exception sites for affordable housing beyond but reasonably adjacent to the development boundaries of villages are acceptable in principle. This is subject to there being a proven and as yet unmet local need for such housing, which is clarified in the supporting text as relating to the parish and adjoining parishes; no other suitable and available sites existing within the development boundary of the settlement; and secure arrangements to ensure the housing will remain affordable and available to meet the continuing needs of local people. It is also subject to proposals being of an appropriate scale and type with regard to the size of the settlement, local landscape character, location and the availability of infrastructure. Policy SWDP13 further sets out requirements in respect of housing density designed to enhance the character and quality of the local area, dependent on the locality, including in terms of infrastructure capacity and accessibility.

6. The proposed development would all be affordable housing but it is disputed by the parties, including the Parish Council and a number of local residents, whether there is a need for it. This is particularly in respect of whether or not there is the potential for provision elsewhere. The submissions draw attention to the results of a parish housing needs survey conducted by the Council at the beginning of this year. That demonstrates a need for 20 units, but only in relation to Pebworth Parish and not those adjoining parishes. Furthermore, I note that data on the Home Choice Plus list of people registered for affordable housing and expressing a preference for living in Pebworth and its surrounding parishes amounts to a total of 56 households. There is therefore a clear and significant proven need for affordable housing locally.

7. In terms of whether that need is likely to be met without the contribution of the appeal development, I have had regard to another approved housing scheme within the District and in the local area including provision for affordable housing. This relates to a proposal that has been granted outline permission on land known as Sims Metal at Long Marston and which would deliver a total of 133 affordable units. However, the reserved matters relating to this remain to be approved and I note that there are unresolved issues including a requirement to connect that development to another one involving works not in the developer's ownership. There is therefore no certainty that this affordable housing will come forward at least in the shorter term. I also understand from the submissions that a proposal to reduce the proportion of affordable housing

on that site is the subject of an appeal, although I have not received the full details of that or the outcome. Nevertheless, it introduces further uncertainty as to deliverability.

8. Furthermore, I have received insufficient substantive evidence to demonstrate that the local need could be better accommodated or deliverable elsewhere within the village without the need for this site. I therefore consider there to be an unmet local need for affordable housing that would be partially met by the proposed development if secured as such through a planning obligation, which would represent a substantial social and economic benefit.

9. Both of the proposed schemes would have a density greater than the average net density of 30 dwellings per hectare as set out in relation to villages in policy SWDP13 of the Development Plan. However, at about 33 and 40 dwellings per hectare respectively, that would not represent significant additional density, particularly as the policy figure is expressed as a broad indication of appropriate average net densities and not a maximum. Furthermore, the proposed design of the schemes would include some smaller one bed units which would enable a greater number of dwellings on the site, thereby contributing to that increased density. However, the smaller size of those dwellings, together with the proposed elements of single storey development, would reduce the overall massing effect.

10. Additionally, as a fourth tier category 3 settlement, under policy SWDP2, Pebworth's role is predominantly aimed at meeting locally identified housing needs, which I have found would be the case in respect of the proposed affordable housing, subject to being secured as such. Furthermore, in the context of the number of dwellings in the village as a whole, including another fairly modern sizeable development nearby to the south of the site, and variable housing densities, neither appeal scheme would be of a scale or density out of proportion or at odds with the existing settlement. I have also received no substantive evidence to indicate that roads and other infrastructure such as the sewerage system could not accommodate the proposed relatively small number of additional dwellings in the context of the village as a whole.

11. I have had regard to the limited services and facilities in the village to serve the day to day needs of prospective residents, and that those such as secondary schools and the full range of shops, leisure and health facilities are further afield. There are however bus services serving the village which, although limited in number and time periods would nevertheless allow some potential for the use of public transport over the private car, albeit that this would be unlikely to prevent at least some reliance on the latter. The proposal would also be conveniently located directly on the edge of the village to maximise the degree of accessibility to its limited services and facilities and to the bus stop. In also taking account of the Development Plan support in principle for meeting an identified local need for affordable housing, despite the limited services and facilities in the village, and that the proposal would not be large in comparison with the village as a whole, such development would not be inappropriate in those circumstances.

12. For the above reasons, it would not represent an over-development of the site and in these respects would accord with policy SWDP13 of the development plan. It would also not be at odds with the principles relating to sustainably

located development set out in paragraphs 17, 29, 30 and 35 of the National Planning Policy Framework (the Framework).

13. With reference to paragraph 204 of the Framework, it therefore remains that a planning obligation to secure the dwellings as affordable housing in perpetuity would be necessary to make the development acceptable in planning terms. Such an obligation would be directly related to the development, and fairly and reasonably related in scale and kind to it.

14. The appellant has submitted a Section 111 Agreement (the s111) under section 111 of the Local Government Act 1972. The s111 states that the owner enters into this Deed to the intent that should the appeal be allowed the land shall be bound by the obligations contained in an agreement under section 106 of the Town and Country Planning Act (the s106) in the form of the draft annexed to the s111. Subject to planning permission being granted and to the appellant exercising the option to purchase the freehold interest in the land currently owned by the Council, the appellant has agreed to enter into the s106 with the Council immediately following the completion of that purchase.

15. Planning permission, once granted, runs with the land and can be implemented by anyone. The s111 does not run with the land as there is no equivalent provision to s106(3) which makes the agreement binding against successors in title. Therefore, it would only bind the current owners who are the Council and appellant. Furthermore, the s111 only requires the appellant to enter into the s106 if it exercises the specific option referred to. For these reasons, the proposed s111 mechanism does not completely secure the obligations in the s106. As such, there would remain a risk, albeit a small one, that there would be planning permission to build housing on the site without a s106 requirement to provide it as affordable housing.

16. Furthermore, a negatively worded condition to limit the development taking place until an obligation has been entered into would not provide sufficient certainty for all parties about what is being agreed. Notwithstanding the benefit of provision of needed affordable housing, the proposed development would not be sufficiently complex and strategically important to represent an exceptional circumstance for using such a condition.

17. For the above reasons, because the proposed affordable housing would not be secured through the s111 mechanism the proposal cannot be considered as a rural exception site for residential development in the open countryside in respect of the provision for affordable housing. As such, it would be contrary to policies SWDP2 and SWDP16 of the Development Plan. It would also be contrary to paragraph 54 of the Framework which sets out in relation to rural areas the need to be responsive to local circumstances and plan housing development to reflect local needs, particularly for affordable housing, including through rural exception sites where appropriate.

Other matters

18. I have had regard to the statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the Pebworth Conservation Area (the CA). Apart from the access drive running between Nos 2 and 3 Chapel Road, the site is located just outside of the CA. The CA is characterised by a variety of designs and types of properties set in a generally spacious setting, surrounded by open countryside.

19. The proposals would comprise dwellings either side of a central road whose streetscene would be closed off by houses at the end of a hammerhead cul-de-sac. The dwellings would vary in size including some single storey buildings. Such a design would broadly reflect the form and pattern of development relating to a traditional farmyard, appropriate on this edge of village site and next to existing farm buildings to the west and north-west. The variety of heights would also reflect those of nearby properties. The proposed materials would also complement those of surrounding dwellings within the CA and, despite concerns raised about some similar features to those of the new houses to the south, a good degree of continuity and design integrity would be maintained within the schemes.

20. Furthermore, the proposed dwellings would be set well away from Chapel Road, preserving its sense of spaciousness, and would also be screened to varying degrees in views from surrounding public vantage points by existing buildings and vegetation. From those raised vantage points on the road and footpath at the western side of the village, it would be glimpsed to varying degrees through intervening vegetation. However, it would be seen very much in the context of existing adjacent village development, including the fairly new housing at Orchard Close to the south of the site. The proposal would also have the benefit of making use of a currently unused and significantly overgrown site.

21. The proposed widened sections of the existing access drive would result in No 3's car parking being relocated to the front garden area. However, that would not be a jarring or unusual feature of the streetscene where other properties have provision for enabling parking at the front. The widening of the access drive itself would also not appear incongruous in the context of the nearby Orchard Close junction with Chapel Road. The inclusion of a splayed design on only one side of the junction would reflect the location next to a neighbouring drive to the north and so that too would not appear as an incongruous feature of the streetscene.

22. For the above reasons, both of the proposals would preserve the character and appearance of the CA and its setting.

23. Each dwelling would have adequate off-street parking. Along with provision for visitor parking, this would prevent reliance on parking along Chapel Road. Furthermore, visibility at the junction with Chapel Road would be adequate in both directions particularly due to the fairly wide and unobstructed verge alongside the road at this point. The access drive, whilst narrow along a fairly short stretch, would open up close to Chapel Road and also towards the rear of No 3, thereby allowing adequate space to wait while other cars pass, clear of the highway. There would be no footway on Chapel Road immediately either side of the site access. However, the road at this point is fairly straight in both directions, which would allow a good degree of visibility for pedestrians to cross over, including to the park opposite.

24. I have had regard to concerns relating to the impact of the development on the site's ecology, including in respect of protected species and tree and hedge habitats. However, the evidence submitted highlights that there are no features that would prevent the development taking place subject to conditions to secure protection and mitigation measures. The proposals would also incorporate an attenuation pond in the south-east corner of the site along with,

in the Appeal B scheme, a green area separate from private gardens in the south-west corner, which would have the potential to provide ecological enhancement measures, including for bats and birds.

25. In respect of concerns over drainage and flooding, I have received no substantive evidence of any existing issues relating to the site that would prevent its development. Measures to ensure that any flood risk in the area would not be exacerbated by the proposal, including provision for a sustainable drainage/surface water drainage scheme, could be secured by condition.

26. In respect of the privacy of neighbouring residents, there would be no habitable room windows relating to the proposals that would directly face the rear elevations of the dwellings at Nos 1 to 4 Chapel Road. The dwelling at plot 1 of the Appeal B scheme would have rear facing windows that would directly face part of the rearmost section of No 1's rear garden. However, any overlooking of the majority of that rear garden, particularly the more private area nearest to the dwelling, would be at an oblique angle. Furthermore, the first floor rear windows of plot 1 would not relate to habitable rooms and any overlooking from ground floor windows could be reasonably expected to be prevented by appropriate boundary treatment. Any other overlooking of neighbouring properties would either be sufficiently distant and/or significantly oblique, or prevented by boundary screening from ground floor levels, to prevent any material loss of privacy to existing residents.

27. In respect of concerns raised about additional noise, the residential nature of the proposals would minimise the likelihood of unexpected sources of disturbance in the context of the existing village environment. There would be noticeably greater vehicle movements between Nos 2 and 3 Chapel Road. However, noise generation such as from car engines could be mitigated to a significant degree by existing and any new boundary treatment secured by condition. Additionally, in respect of No 2, its wide side garden/drive area separating the proposed access drive from that house, and its fairly large rear garden, would be likely to further reduce any overall potential disturbance to residents inside or using the garden of that property.

Conclusion

28. The Framework sets out that there should be a presumption in favour of sustainable development and indicates that to achieve that, economic, social and environmental gains should be sought jointly and simultaneously through the planning system.

29. Having regard to paragraph 47 of the Framework, the proposal would contribute towards boosting significantly the supply of housing in the area. However, I have received no substantive evidence to indicate that the Council cannot demonstrate a five-year supply of deliverable housing sites. That contribution would therefore only represent a substantial benefit if the housing was secured as affordable housing, for which there is a clear local unmet need. The failure to secure this in perpetuity, and where only such housing would be acceptable in this location outside of the settlement boundary in respect of the development plan taken as a whole, therefore weighs heavily against the proposal.

30. There would be the potential benefit of some ecological enhancement measures. However it is unlikely that these would be substantial in the context

of the wider area and the restricted areas for such measures within the site due to the proposed built form. Such a benefit would therefore be insufficient to outweigh the above concerns relating to affordable housing provision. My findings that there are no other factors that would weigh against the proposals also does not deflect from those concerns. It would therefore not be a sustainable form of development.

31. Therefore, for the above reasons, and taking account of all other matters raised, I conclude that the appeals should be dismissed.

Andrew Dawe

INSPECTOR