



Appeal Decision

Site visit made on 19 June 2018

by Martin Chandler BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th July 2018

Appeal Ref: APP/H1840/W/18/3197607

Land adjacent to Woodview, Worcester Road, Drakes Broughton, Worcestershire, WR10 2AQ

- 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 Edward Mustin, EGM Homes Ltd against the decision of Wychavon District Council.
 - The application Ref 17/02489/FUL, dated 6 December 2017, was refused by notice dated 21 February 2018.
 - The development proposed is a new dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for a proposed new dwelling at Land adjacent to Woodview, Worcester Road, Drakes Broughton, Worcestershire, WR10 2AQ in accordance with the terms of the application, Ref 17/02489/FUL, dated 6 December 2017, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plan: 1702-07a.
 - 3) Prior to their installation, details and/or samples of the materials to be used in the construction of the external surfaces of the dwelling hereby permitted shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and/or samples.
 - 4) Prior to its implementation, a scheme of landscaping shall have been submitted to and approved in writing by the local planning authority. The scheme shall include indications of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.
 - 5) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

- 6) Prior to the occupation of the dwelling hereby approved, details of the following shall be submitted to and approved in writing by the Local Planning Authority:
 - a) Renewable or low carbon energy generating facilities to be incorporated as part of the development (to demonstrate that at least 10% of the predicted energy requirements are met through this source)
 - b) Water management statementThe development shall be implemented strictly in accordance with the approved details and maintained thereafter as such.
- 7) Prior to the occupation of the dwelling hereby approved, a scheme to agree the location of 2 new bat boxes shall be submitted to and approved in writing by the Local Planning Authority. The bat boxes shall be implemented in accordance with the approved details and maintained thereafter as such.

Main Issue

2. The main issue is whether the appeal site would represent a suitable location for a new residential dwelling having regard to the Drakes Broughton development boundary.

Reasons

3. Policy SWDP2 of the South Worcestershire Development Plan (February 2016) (SWDP) provides a development strategy and settlement hierarchy for the district. Drakes Broughton is classified as a category 2 village.
4. The appeal site is a parcel of land adjacent to a development of 3 houses that are nearing the end of their construction. The proposed development would see an additional house of a similar design located towards the eastern boundary of the site. It is common ground that the development boundary of Drakes Broughton runs through the appeal site and would cross diagonally through the built form of the proposed house. The amenity space to the rear of the house would sit entirely outside of the development boundary. In light of this partial breach, it is clear that the development would not accord with policy SWDP2 of the SWDP which seeks to promote development in accordance with the development strategy and settlement hierarchy.
5. Notwithstanding this conclusion, section 38(6) of the Planning and Compulsory Purchase Act 2004 (the Act) states that decisions should be determined in accordance with the development plan unless material considerations indicate otherwise.
6. On my site visit I observed that the development boundary is not appreciated on the ground. I understand that a former hedgerow has recently been removed and the eastern boundary of the site is now defined by a newly constructed low, close-boarded timber fence which does not follow the development boundary. It seems likely that the removal of the hedgerow changed the character and appearance of the appeal site but I am not aware of the circumstances around its removal and it is a well-established principle that I have to determine the appeal on the basis of the evidence that I have before

me. In its current form, whilst the development boundary partially crosses the appeal site, it is quite clear that the site has a greater affinity with the settlement and houses to the south and west of the appeal site as well as additional houses under construction to the south-east, than it does with the adjacent countryside. Furthermore, the Council considers that the proposal is of an appropriate design and scale that will integrate with the landscape setting and have an acceptable visual impact. They also raise no objections on highway grounds. Moreover, they are satisfied that the proposal is not isolated and the facilities within the village would be within a reasonable walking distance of the site. I agree with all of these points.

7. The Council has brought my attention to other dismissed appeal decisions that address the same policy conflict in terms of development boundaries. I have considered these accordingly and from the evidence I have before me, I am satisfied that the proposals are materially different. In each case, the sites were located in different settlements and fell wholly outside of their relevant development boundaries rather than the partial breach that has been identified in this proposal. I therefore consider that I am not bound by the findings of previous Inspectors in relation to this main issue and can determine this appeal based on its individual merits.
8. I also fully accept that the Council can demonstrate a 5 year supply of deliverable housing sites and has an up-to-date development plan. That said, whilst it is a core planning principle that planning should be genuinely plan-led, a 5 year supply of deliverable sites should not be seen as a maximum figure and its presence should also not mean that other material considerations cannot be taken into account. I consider that such an approach is consistent with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and consistent with the Court of Appeal *Barwood v East Staffordshire Borough Council, Secretary of State for Communities and Local Government* (30 June 2017) judgement referred to by the Council.
9. For the reasons identified above, I am satisfied that whilst the proposal would technically not accord with policy SWDP2, the appeal site is readily assimilated with the built up area and the development would safeguard the open countryside. Furthermore, the contribution of an additional dwelling to local housing supply weighs in favour of the proposal. I therefore consider that because the technical breach of the development boundary is so marginal, and that because the development would be acceptable in all other respects, these material considerations indicate a decision other than in accordance with the development plan. The site would therefore represent a suitable location for an additional dwelling.
10. In light of the success of the appeal, conditions are necessary to set out the standard time limit available to implement the proposal and, in the interests of certainty, to identify the approved plans. A condition is also necessary in relation to landscaping and tree protection to ensure the proposal is successfully integrated into its wider setting and whilst I note the appellant's comments about the previous approval, without a condition on this decision there can be no certainty that the landscaping would be implemented. Furthermore, whilst I accept that some details in relation to renewable or low carbon energy generating facilities have been provided, this refers to options yet to be finalised. In the interests of precision and to ensure implementation,

a condition is necessary for the final details to be approved. The same applies to water management.

11. Finally, I note in the delegated officer's report that this proposal would likely compromise the positioning of previously agreed bat boxes that were required to mitigate the impact of the scheme that is currently under construction. Whilst I have not been provided with any evidence in relation to the presence of bats, given the history and context of the site, I consider that it is necessary and reasonable to attach a condition to agree the position of 2 new bat boxes on the appeal site.

Conclusion

12. For the reasons identified above, the appeal is allowed.

Martin Chandler

INSPECTOR