



Appeal Decision

Site visit made on 26 April 2019

by P D Sedgwick BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 July 2019

Appeal Ref: APP/H1840/W/19/3222283

Land at Perrie Drive, Honeybourne, WR11 7XT

- 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 Rafiq Khan against the decision of the Wychavon District Council.
 - The application Ref 18/01447/FUL, dated 18 July 2018, was refused by notice dated 17 December 2018.
 - The development proposed is described as 'The proposal seeks full planning permission for six dwellings comprising two bedroom, three bedroom and four bedroom units (Resubmission of Planning Application 17/02263/FUL)'.
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Decision

1. The appeal is allowed and planning permission is granted for six dwellings comprising two bedroom, three bedroom and four bedroom units (Resubmission of Planning Application 17/02263/FUL) at Land at Perrie Drive, Honeybourne, WR11 7XT in accordance with the terms of the application, Ref 18/01447/FUL, dated 18 July 2018, subject to the conditions in the attached Schedule.

Preliminary Matters

2. Revised plans were submitted to the Council before it made its decision. They included changes to parking configuration and road width. For the avoidance of doubt and to ensure that the plans have been subject to consultation, I have based my decision on those which were considered by the Council's Planning Committee and referred to in the decision notice.
3. Honeybourne Parish Council has objected to the proposal on the grounds of a conflict with the emerging Honeybourne Neighbourhood Development Plan (NDP). My understanding is that the NDP has not been examined. As such whilst I have had regard to it, I accord it limited weight.

Main Issues

4. The main issues are the effect of the proposal upon:
 - the character and appearance of the area;
 - the living conditions of occupants of nearby housing with particular regard to outlook;
 - open space provision; and,

- affordable housing provision.

Reasons

Character and Appearance

5. The appeal site comprises grassed areas of open space bordered by footpaths within a housing estate. The estate is accessed by Perrie Drive at the end of which there are residential parking bays which abut a corner of the site. Footpaths connect to housing that surrounds the open space. Houses are predominantly 2-storey, semi-detached but there are also small terraces of three. Some back onto the site separated from it by close board fencing or hedges at the rear of their gardens. Others face into it and have no direct road access. Vehicle tracks across the site suggest that in the absence of road access some residents use the open space to reach the front of their properties to park.
6. There are no formal play facilities. Nevertheless, I assume that the area is used for informal recreation. It was clear from my visit that the open space contributes to the character and appearance of the area and the pattern of residential development.
7. The proposed development would replace the central area of open space with housing. Perrie Drive would be extended into the site to provide access to the proposed development which would have off road parking and parking bays for visitors. Footways would be retained, with one section re-directed to accommodate visitor parking. Although the amount of open space would be reduced, the essential character and appearance of the area would not be significantly changed. It would remain residential, consisting of two storey houses around a core area of open space. Pedestrians would be able to move through the site and access the remaining parcels of open space within the immediate area. The proposal would therefore be in accordance with Policies SWDP 21 and SWDP 25 of the South Worcestershire Development Plan (2016)(LP) and the South Worcestershire Design Guide Supplementary Planning Document (2018), which requires development that responds to the urban form, complements the character of the area and integrates with the landscape setting.

Living Conditions

8. Houses adjacent to the site back on to it and are separated from it by rear garden fences and hedges. They do not therefore currently benefit from uninterrupted views of it. Nevertheless, the outlook from their rear facing windows and gardens would be changed by the sight of the proposed houses. This would particularly affect those properties on Harvard Avenue which have rear boundaries close to the side elevation of the proposed house on plot 6. However, as noted in the Planning Committee Update Report of 13 December 2018, amended plans increased the distance between the gable end of plot 6 and the rear garden boundary of 20 Harvard Avenue to approximately 7 metres. The distance between the proposed development and adjacent housing is enough to ensure that there would be no overbearing impact and overshadowing would be limited to parts of the rear garden. I do not consider the occupants' outlook would be harmed to an extent that would justify withholding planning permission.

9. Similarly, the outlook for occupants of houses facing into the site would be changed. There would be a reduction in the sense of openness with the building line coming closer to their properties. Nevertheless, there would be no overbearing impact and they would still look out onto an area of open space albeit reduced in size. As such any harm to their living conditions in this respect would be minor and not in my view significant. The proposal would therefore comply with LP Policy SWDP 21 which requires development to provide an adequate level of privacy, outlook, sunlight and daylight and not be unduly overbearing.

Open Space Provision.

10. The appellant contends that the site has little amenity value space and is not designated for protection. A report of the Localism and Community Advisory Panel dated 3 April 2017 is included as evidence of this. The report concluded that the site was not eligible for nomination as an asset of community value (ACV). This was based on comments from Honeybourne Parish Council who did not initially support its nomination referring to both its lack of use and the provision of alternative play and recreation areas in the village. Since then the Parish Council has changed its view and included the area for protection under Policy H7 of its emerging Neighbourhood Development Plan (emerging NDP). I have had regard to the emerging NDP but only accord it limited weight because it has not yet been through examination.
11. Policy SWDP 38 of the LP seeks to protect public and private open space. The appellant asserts that because the site is not included on the proposals map it cannot be considered under the policy. However, it is clear from the supporting text that it is intended to cover all public and private open space that contributes to the quality and character of the area. In my view the site does contribute to the character of the area and is clearly valued by residents as demonstrated by third party objections to the proposal and its inclusion in the emerging NDP.
12. The policy only allows open space to be developed in exceptional circumstances. The proposal is not for a community use; an assessment of community and technical need has not been provided demonstrating that it is surplus to requirements; and, an alternative/replacement green space has not been secured in a suitable location. The proposal does not therefore fulfil any of the exceptional circumstances set out in the Policy and as such is contrary to it. However, whilst the proposal would remove the central section of open space within the site, some would be retained as would footpaths connecting it with the open space adjoining the site. This would allow continued access to open space for residents and those passing through the estate by foot. Furthermore, as noted by the appellant, the land is currently in private ownership and public access to it could be prevented at any time.
13. A properly completed section 106 Unilateral Undertaking has been provided. The provisions of the unilateral undertaking have been assessed having regard to Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended). Its provisions in relation to open space and financial contributions towards open space and affordable housing are necessary to make the development acceptable in planning terms, are directly related to the proposed development and are reasonably related in scale and kind. Accordingly, I shall

therefore take the unilateral undertaking into account in relation to these matters.

14. The section 106 Unilateral Undertaking would secure access to the remaining open space within the site, ensure its future maintenance, and place it in public ownership, or that of a management company, so that residents could continue to use it. It also includes a financial contribution to the Council for the provision or improvement of public open space. In my view this offers significant mitigation against the harm from the conflict with Policy SWDP 38.

Affordable Housing

15. The Section 106 Unilateral Undertaking also includes a contribution for off-site affordable housing. This overcomes the Council's reason for refusal on affordable housing grounds as confirmed in an email from the Planning Officer dated 29.03.2019. The proposal therefore complies with LP Policy SWDP 15 which requires new housing development to contribute towards the provision of affordable housing.

Other Matters

16. Third party concerns relate to overlooking, overshadowing, parking provision, drainage, access for emergency service vehicles, school places, housing provision in the village, design, and footway safety. I have had regard to these matters and conclude that either no harm would occur, or that based on the evidence before me the level of harm would not be significant enough to warrant withholding planning permission.

Conditions

17. I have considered the conditions suggested by the Council. A condition specifying the approved plans, is necessary in the interests of clarity. Conditions preventing a start to development until a Construction Management Plan has been approved and houses being occupied until accesses and parking area have been constructed are necessary to ensure highway safety. A condition regarding contaminated land is necessary to protect against pollution and harm to health. A condition requiring obscure glazed windows on the side elevation of the house on plot 1 is necessary to ensure privacy. Conditions requiring agreement of first floor slab levels, external finishes and landscaping are necessary to safeguard the character and appearance of the area. Conditions requiring details of waste storage facilities is necessary to ensure they are adequately provided for. A condition controlling the timing of work and deliveries is necessary to safeguard the living conditions of neighbours. Conditions regarding renewable energy generation and drainage are necessary to ensure the proposal is sustainable in terms of energy use and surface water management. Conditions regarding open space are necessary to safeguard living conditions and the character and appearance of the area. The appellant has agreed to the list of conditions proposed by the Council.

Conclusion

18. The proposed development would provide social benefits in terms of additional housing and economic benefits during its construction and subsequent occupation. The site is within the development boundary for Honeybourne where in principle housing development is supported. While not in accordance with LP Policy SWDP 38, the proposed development would nevertheless include

open space provision and a suitable location for housing having regard to the character and appearance of the area. It would also represent sustainable development in accordance with paragraph 7 of the National Planning Policy Framework. Overall, I conclude that the limited harm arising from the conflict with policy due to the loss of open space would be outweighed by the benefits of the scheme and planning permission should be allowed.

P D Sedgwick

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2) The dwellings hereby permitted shall not be occupied until the accesses serving the proposed and existing dwellings, aisle widths, turning areas shared private driveways and parking spaces shown on the approved drawing reference A(SK)-01 revision B have been properly consolidated, surfaced, drained and otherwise constructed in accordance with details to be submitted and approved in writing to the Local Planning Authority and these areas shall thereafter be retained and kept available for those users at all times.
- 3) The development hereby permitted shall not begin until a Construction Environment Management Plan has been submitted to and approved in writing by the Local Planning Authority. The approved statement shall be adhered to throughout the construction period. The statement shall provide for:
 - a) The parking of vehicles of site operatives and visitors within the application site.
 - b) Loading and unloading of plant and materials within the application site.
 - c) Storage of plant and materials within the application site.
 - d) Siting of site offices within the application site.
 - e) Wheel washing facilities
 - f) Measures to ensure that vehicles leaving the site do not deposit mud or other detritus on the public highway.
 - g) Measures to protect the amenities of nearby properties and the highway from noise, vibration and dust during construction.
- 4) In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with DEFRA and the Environment Agency's Model Procedures for the Management of Land Contamination, CLR 11, and where remediation is necessary a remediation scheme must be prepared and approved in writing by the Local Planning Authority in advance of the scheme commencing. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local

- Planning Authority prior to development commencing other than that required to be carried out as part of an approved scheme of remediation.
- 5) The first-floor side windows of the dwelling on Plot 1 shall be obscure glazed and top opening only and retained as such thereafter.
 - 6) No construction work (other than the digging of foundation trenches) on the development hereby permitted shall commence until the precise floor slab levels of each new building, relative to the existing development on the boundary of the application site have been submitted to and approved in writing by the local planning authority. Thereafter the new buildings shall be constructed at the approved floor slab levels.
 - 7) Prior to the first occupation of the development hereby permitted, details of refuse storage facilities to serve each of the approved properties shall be submitted to and approved in writing by the Local Planning Authority. The details shall include areas within or close to each curtilage where refuse bins will generally be stored as well as bin storage shelters where proposed. The approved refuse storage facilities shall be implemented prior to the first occupation of the development and retained thereafter.
 - 8) Unless where required or allowed by other conditions attached to this permission, the development hereby approved shall be carried out in accordance with the information (including details on the proposed materials) provided on the application form and the following plans:
Landscape Plan A(90)-01 Rev D; Site location plan A(00)-01 Rev D; Site plan A(10)-04 Rev E; A(10)210-GF Plan-2 Bed; A(10)211-FF Plan-2 Bed; A(10)-212-Roof Plan-2 Bed; A(10)-231-North elevation 2 Bed; A(10)-232 East elevation-2 Bed; A(10)-233 South elevation-2 Bed; A(10)-234 West elevation-2 bed; A(10)-310 GF Plan-3 Bed; A(10)-311 FF Plan-3 Bed; A (10)-312 Roof Plan-3 bed; A(10)-331 North elevation-3 Bed A(10)-332 East Elevation-3 Bed; A(10)-333 South elevation-3 Bed; A(10)-334 West Elevation-3 Bed; A(10)-410 GF Plan-4 bed; A(10)-411 FF Plan-4 Bed; A(10)-412 Roof Plan-4 Bed; A(10)-431 North elevation-4 bed; A(10)-432 East Elevation-4 bed; A(10)-433 South elevation-4 Bed; A(10)-434 West Elevation-4 Bed; 06-0079-002 Rev P3-Drainage Layout; 06-0079-003 Rev P2-Impermeable area plan; 06-0079-004 Rev P3-Post development impermeable area plan.
 - 9) Prior to the commencement of construction of any external walls or roofs of any of the dwellings hereby approved, details of the materials to be used in the construction of the external surfaces of the dwellings shall be submitted to and approved in writing by the local planning authority. The details to be submitted shall include type, colour, texture, size, coursing, finish, jointing and pointing of brickwork; type, colour, texture, size and design of roofing materials.
 - 10) Demolition, clearance or construction work and deliveries to and from the site in connection with the development hereby approved shall only take place between the hours of 08.00 and 18.00hrs Monday to Friday and 08.00 and 13.00hrs on a Saturday. There shall be no demolition, clearance or construction work or deliveries to and from the site on Sundays or Bank Holidays.
 11. Before the occupation of the first property hereby approved, details of the proposed soft landscaping of the site shall be submitted to and approved in writing by the Local Planning Authority. The landscaping scheme shall include:

- (i) a plan showing the layout of proposed tree and shrub planting and grass areas;
- (ii) a schedule of proposed planting - indicating species, sizes at time of planting and numbers/densities of plants;
- (iii) a written specification outlining cultivation and other operations associated with plant and grass establishment;
- (iv) a schedule of maintenance, including watering and the control of competitive weed growth, for a minimum period of five years from first planting.

All planting and seeding/turfing shall be carried out in accordance with the approved details in the first planting and seeding/turfing seasons following the completion or first occupation of the development.

The planting shall be maintained in accordance with the approved schedule of maintenance. Any trees or plants which, within a period of five years from the completion of the planting, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

- 12. Prior to the occupation of any of the individual dwellings hereby permitted, renewable energy generating facilities as included within the Energy Statement dated 27/07/2017 to serve the dwelling shall be provided and fully operational.
- 13. Prior to the first occupation of the development hereby permitted, the details set out in the submitted Water Management Statement shall be fully implemented and remain thereafter.
- 14. The area of open space included within the application site and positioned to the north of the housing development hereby approved, shall be kept available at all times for the public enjoyment of the local community. Pedestrian access across this land shall not be prohibited at any time.
- 15. Prior to the occupation of the development hereby permitted, details of a management plan for the open space within the development shall be submitted to and approved in writing by the Local Planning Authority. The land shall be managed in accordance with the approved management plan thereafter.

*****End of Conditions*****