



Appeal Decision

Site visit made on 27 May 2020

by S J Lee BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th June 2020

Appeal Ref: APP/H1840/W/20/3245900

Casa Mia, Three Cocks Lane, Offenham, Evesham WR11 8RY

- 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 David Morgan against the decision of Wychavon District Council.
 - The application Ref 19/00992/FUL, dated 24 April 2019, was refused by notice dated 1 August 2019.
 - The development proposed is demolition of existing garage, construction of 2 bungalows and garages to the rear of Casa Mia and construction of replacement garage to serve Casa Mia.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr David Morgan against Wychavon District Council. This application is the subject of a separate Decision.

Main Issues

3. The main issues in this appeal are (i) whether the location would be suitable for housing development having regard to local planning policy, (ii) the effect of the development on the character and appearance of the area, and (iii) the effect of the development on biodiversity.

Reasons

Location

4. The appeal relates to a detached bungalow known as Casa Mia and its relatively large grounds. The area immediately to the rear of the existing dwelling is fenced off, but the wider site clearly remains part of its garden, with a large lawned area in the middle and a vegetable patch at the end. This is clearly of a domestic nature. The site is accessed via a private drive from Three Cocks Lane and stretches back perpendicular to the rear gardens of dwellings fronting Main Street. The site is effectively enclosed on three sides by residential development, with an open arable field to the east.
5. Policy SWDP2 of the South Worcestershire Development Plan (SWDP)(2016) establishes the development strategy and settlement hierarchy for the area. One of the broad aims of the policy is to create a sustainable pattern of development by focussing development into areas with good access to services

and facilities. To this end, the majority of development is focussed on higher order urban areas. A second aim is to safeguard or enhance the quality of the open countryside.

6. Offenham is classed as a 'Category 1' village where infill development within defined development boundaries is acceptable in principle. Casa Mia itself is within the defined boundary, but the remainder of the site is outside it. The defined boundary wraps around three sides of the garden area. It also extends beyond the site in an easterly direction to accommodate the short row of houses either side of Three Cocks Lane and housing on New Road.
7. Criterion C of the policy states that land beyond any development boundary is classed as open countryside where new housing will be strictly controlled and limited to a small number of categories. The proposed dwellings would sit outside the defined boundary. There is also no suggestion that they would fit into any of the exceptions to the policy. As such, the development would clearly conflict with the policy in terms of its location.
8. The appellant argues that notwithstanding the defined boundary, the development would meet many of the requirements of the policy and be consistent with its overall objectives. Offenham contains a number of facilities, including a 'first school', church, post office with a small convenience store attached, village hall and a recreation ground. There is also a bus service that links to Evesham, which is about 10 minutes away. For a village of this scale, it therefore appears relatively well served and residents have some access to public transport. The site itself is actually nearer to some facilities than parts of the village where development would be acceptable in principle.
9. The Council acknowledge that Offenham is a sustainable location in principle. Their statement also alludes to the fact the SWDP allocated land for growth in or around Offenham. The appellant has also drawn my attention to evidence which suggests the Council is minded to allocate additional land for housing outside the existing boundary through a review of the local plan. I have been provided with little information on the status of this emerging plan and thus can give this factor little weight. Nevertheless, the evidence suggests the Council considers Offenham to be a suitable location for some housing growth.
10. Policy SWDP2 encourages the use of previously developed land. The appellant argues that the development would meet this principle. The definition of previously developed land in the National Planning Policy Framework (the Framework) excludes residential gardens within built-up areas. The site is surrounded on three sides by residential development and thus it should be considered as being within the built-up area of the village. The site is therefore not previously developed land. This factor does not therefore weigh in favour of the proposal. However, the fact the site is considered part of the built-up area reinforces the close relationship it has with the village.
11. None of the above alters the fact that the location of the development would conflict with Policy SWDP2, the aims of which are set out above. However, the weight attributed to that harm would be tempered to a significant degree by the site's sustainable location and good access to services and facilities.

Character and appearance

12. Although outside the defined development boundary and thus classed as the open countryside in policy terms, the site itself very clearly has a domestic use and appearance. There is an obvious and stark contrast between the character, appearance and function of the site and the clearly agricultural uses to the east.
13. The Council argue that the site provides a visual gap between the residential dwellings on the edge of the village and the open countryside beyond. There are a small number of dwellings on Main Street which look across the garden to the fields to the east. The site is not visible to any extent from Three Cocks Lane. Any glimpsed views that would exist along the access drive would be seen in the context of housing to the south of the site. The site is however clearly visible from the public right of way (PROW) which skirts the edge of the neighbouring field. Although from here the site provides a small visual buffer to housing on Main Street, the boundary of the garden still creates a distinct visual edge to the built form of the village.
14. Therefore, while the site is defined as open countryside, it does not necessarily appear as such 'on the ground'. Furthermore, development here would not extend beyond the existing building line of Casa Mia or other housing on Three Cocks Lane or New Road. Any encroachment would therefore be of a technical nature only.
15. Nevertheless, the development would clearly result in a significant increase in density on the site and loss of openness. There is little to suggest that backland development of this type is an established or prevalent feature of the village. The layout of the development would result in a fairly long private drive running directly along the rear boundaries and gardens of dwellings on Main Street. The front elevations of the proposed bungalows would face these gardens, with little separation. In my view, this would result in an awkward and somewhat contrived relationship and appearance. From what is before me, I consider the siting and layout would be uncharacteristic of the predominant grain and layout of the village as a whole.
16. I also note that Policy SWDP2 would only allow for 'infill' development within the development boundaries of rural settlements. Although no definition of infill has been provided, it would be reasonable to assume that it refers to the filling of gaps along a frontage. Therefore, even if the site were *within* the development boundary, it would not necessarily meet the specific requirements of the policy.
17. Taken together, I consider the siting and layout would result in an incongruous form of development. While well screened from Three Cocks Lane, the discordant nature of the siting of the bungalows would be readily apparent from private views of neighbours and the PROW. The significant increase in density and small loss of openness directly on the edge of the village would also result in a limited degree of additional harm to its rural setting. Additional landscaping would not alter my conclusion in this regard.
18. In coming to this conclusion, I have had regard to the fact the Council did not object to the design of the dwellings, their spacing within the site or the amount of amenity space provided. Nonetheless, the development would still result in an uncharacteristic form of siting and layout which would be harmful

to the character and appearance of the area. It would therefore conflict with SWDP policies SWDP21 and SWDP25 which seek, amongst other things, to ensure development complements and integrates with the character of an area and its setting. While the harm would be at the lower end of any scale and localised, it would nevertheless weigh against the development.

19. Policy SWDP2 states that development should safeguard or enhance the open countryside. In the context of the policy and its definition of open countryside, the harm I have found means the development would not meet this requirement. However, the weight given to this would also be balanced against the lack of physical encroachment into the rural hinterland of the settlement.

Biodiversity

20. The development would result in the loss of a hedgerow on the western boundary. Without compensatory features, the Council argue that this would result in a net loss of biodiversity on the site. However, their evidence indicates that they accept any impact would be at the 'lower end of the spectrum'. There is nothing to suggest that the site, or any features that might be lost, are designated biodiversity assets. There is also no evidence to suggest that the loss of a relatively small area of hedge or any other features on the site would result in material harm from a biodiversity perspective.
21. The appellant has stated they would also be happy to address this issue through the planting of a new native hedgerow on the eastern boundary. I am satisfied that such measures would mitigate the harm caused. I also consider this a matter that could have been adequately dealt with by condition. Accordingly, the development would not result in unacceptable harm to biodiversity assets and there would be no conflict with SWDP Policy SWDP22. This seeks, amongst other things, to ensure that development be designed to enhance biodiversity assets.

Other Matters

22. The development would deliver two additional market dwellings. The Council can currently demonstrate a five year supply of deliverable housing land and there is no substantive evidence of any urgent local needs. In these circumstances, the benefits derived from two dwellings would be limited. However, the delivery of two homes would still make a small contribution to the housing land supply and would thus weigh in favour of the proposal.
23. Paragraph 78 of the Framework states that housing in rural areas should be located where it can maintain or enhance the vitality of rural communities. The development would be consistent with this objective. However, the scale of development is such that it would not provide significant economic or social benefits. There is also nothing before me to suggest the vitality of Offenham is under threat. As such, these factors garner only limited weight in favour of the proposal.
24. I note the development proposes the use of photovoltaic panels. While this may provide some minor energy efficiency benefits, these are largely necessary to meet policy requirements and mitigate the impact of development. This does not therefore add any particular weight in favour of the development.
25. I acknowledge that the site is not in a 'Significant Gap' or Green Belt. The Council also found no harm in relation to other aspects of the development,

- including highways and the living conditions of neighbours. There is nothing before me that would lead me to a different conclusion. However, a lack of harm in these respects are neutral factors that weigh neither for nor against the development.
26. Paragraph 79 states that isolated housing in the countryside should be avoided. However, while the development would not be isolated, the Framework does not preclude other reasons for resisting development outside settlements. While there would be no harm in this respect, the development would still be contrary to policy. Thus, this adds no particular weight in favour of the development.
27. The appellant has drawn my attention to earlier permissions for a bungalow on the site. Although granted some time ago, it is contended that these have been implemented to the extent they remain extant. The Council dispute this. I have not been provided with the full details of these permissions or any evidence that they have been implemented. The evidence before me on their status is therefore somewhat inconclusive.
28. The Council has indicated that these permissions were granted during a period when they could not demonstrate a five year supply of housing land. The planning balance would therefore have been different to now. They were also granted in a different policy context. I am also mindful that the existing permissions are for one additional bungalow, rather than two. Notwithstanding the clear differences in the policy and decision making context, the increase in scale of development proposed here would result in a marginally greater degree of conflict with the policy. While the difference would not be significant, the proposal before me would still be more harmful than what was previously allowed.
29. I also cannot conclude with any certainty that what is now proposed would not be more harmful to local character than what was previously permitted. However, it would be reasonable to assume that a single dwelling would be less harmful than two. Accordingly, whether or not the permissions are extant, they do not weigh in favour of allowing a potentially more harmful form of development.
30. The appellant has drawn my attention to a permission in principle application elsewhere granted by the Council for a single dwelling outside a settlement boundary. This confirms that decisions can be made other than in accordance with the plan if material considerations justify it. I do not have the full details of that proposal, but it is clear that the planning history relating to the site and nearby area had a significant influence on the planning balance. In particular, it appears that an appeal decision for a larger development outside the boundary was a significant material consideration. It was also for a single dwelling where no harm to character and appearance had been identified. As such, this case is not directly comparable to that before me and does not lead me to alter my decision.
31. The appellant has raised concerns about the communication from the Council and their handling of the application. This is a matter between the parties that is outside the scope of the appeal. This issue has had no bearing on my decision.

32. I have noted the letters of support. However, these do not alter my conclusions regarding the conflict with policy and other harm.

Planning Balance & Conclusion

33. Section 38(6) of the Planning and Compulsory Purchase Act 2004 (the Act) states that planning decisions must be made in accordance with the development plan unless material considerations indicate otherwise. The importance of the plan-led system is clear. Nevertheless, the Act and the Framework provide scope for other considerations to be considered in the planning balance.
34. There is clear conflict with the development plan in relation to being outside the defined development boundary. The policy and plan are up-to-date and thus this conflict weighs significantly against the development. The policy establishes the broad strategy for the distribution of development and should not be set aside lightly. I acknowledge that the close relationship between the site and the village and the sustainable location of the site serve to limit the overall impact on the Council's strategy. However, the development would also result in moderate harm to the character and appearance of the village. This also weighs against the development.
35. Set against these conflicts with policy would be the delivery of two market dwellings. These would provide limited social and economic benefits. None of the other considerations considered above provide particular weight in favour of the proposal.
36. When considered as a whole, I therefore find that the limited benefits of the development are insufficient to outweigh the clear conflict that exists with the development plan strategy and the harm to character and appearance. Accordingly, there are no material considerations that would lead me to a decision other than in accordance with the development plan in this case.
37. For the reasons given above I conclude that the appeal should be dismissed.

S J Lee

INSPECTOR