



Appeal Decision

Site visit made on 10 May 2022

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 May 2022

Appeal Ref: APP/H1840/W/21/3276845

Land off Brook Lane, Cropthorne, Pershore, Worcestershire WR10 3JY

- 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 and Mrs Simpson against the decision of Wychavon District Council.
 - The application Ref 20/02694/PIP, dated 27 November 2020, was refused by notice dated 25 March 2021.
 - The development proposed is permission in principle for a single self-build dwelling.
-

Decision

1. The appeal is allowed and permission in principle is granted for a single self-build dwelling at land off Brook Lane, Cropthorne, Pershore, Worcestershire WR10 3JY in accordance with the terms of the application, Ref 20/02694/PIP, dated 27 November 2020.

Procedural Matters

2. The appeal application is for permission in principle, as provided for in the Town and Country Planning (Permission in Principle) Order 2017. The Planning Practice Guidance (PPG)¹ advises that this is an alternative way of obtaining planning permission for housing-led development which separates the consideration of matters of principle from the technical detail. Planning permission does not exist unless both the permission in principle and the technical details are approved. This appeal relates to the first of these two stages. The PPG sets out that the scope of permission in principle applications is limited to location, land use and amount of development.

Main Issues

3. The main issue is whether the site is suitable for residential development, having regard to its location, the proposed land use and the amount of development.

Reasons

Location of site

4. Part C of Policy SWDP2 of the South Worcestershire Development Plan (2016) (SWDP) states that permission for development in the countryside, beyond any development boundary will be strictly controlled to developments specifically permitted by SWDP policies.

¹ Paragraph: 001 Reference ID: 58-001-20180615

5. The site is close to the settlement boundary of the village of Crophorne but nonetheless it is located beyond it in open countryside. The Council contend that the site is open grass land, however, the appellant states that it forms part of the garden of Brookside Cottage. Based on the evidence before me and my observations on the site visit, it is apparent that the site is garden land. However, as the development would be located beyond the settlement boundary of Crophorne it does not accord with the limited forms of development permitted. Therefore, it would be contrary to Part C of Policy SWDP 2. The appellant also accepts that there is a technical breach of the policy due to the location of the site.
6. The site is connected to the junction of Main Street and Brook Lane via a private access track. A public footpath extends along the entire length of Main Street providing access by foot to the primary school, church, village hall and playing fields. I also note that at the end of the private track is a farm shop. Whilst future occupants would most likely travel by motor vehicle to larger settlements for goods and services the village benefits from a number of services and facilities to meet residents' day to day needs.
7. It is acknowledged in the National Planning Policy Framework (the Framework) in paragraph 105 that transport solutions vary between urban and rural areas. As such there will be a tension and a balance to be struck between the desirability of supporting sustainable rural development and maximising sustainable transport opportunities. Taking the above into account I find that the location of the development with regards to accessibility would not be unacceptable.
8. Consequently, the proposed development would accord with SWDP Policy 4 which, amongst other things, requires proposals to offer genuinely sustainable travel choices.

Character and appearance

9. The appeal site comprises a parcel of garden land located between the village of Crophorne and the River Avon. The site comprises a clearing between clusters of trees. The area between the village and river whilst verdant and spacious is characterised by large individually designed and prominently positioned dwellings set within substantial grounds extending along the river.
10. The grounds extend down to the river and display an overwhelming domestic appearance reflected through its managed landscaping and ancillary structures including play equipment, outbuildings and private jetties, which are clearly visible from the Public Right of Way on the other side of the river.
11. The site is located within the Principal Village Farmlands landscape area as set out in Worcestershire's Landscape Character Assessment (LCA). The LCA outlines this landscape area as an open, rolling landscape characterised by a nucleated pattern of rural villages surrounded by arable fields.
12. I have paid regard to the appellant's Landscape and Visual Appraisal which concludes that the landscape south of the river including Crophorne village conforms weakly to the local characteristics contained within the LCA. The site has a medium to low sensitivity to change due to the character and appearance of the area and the appraisal states it can satisfactorily absorb the proposal.

13. I acknowledge that the agrarian landscape surrounding Crophorne provides an open and verdant setting to the village. However, the area between the village and river is heavily managed and domesticated in contrast to the agrarian landscape on the other side of the river and the other sides of the village. The proposal would be well contained within this domestic setting read as forming part of a residential landscape rather than open countryside. It would successfully integrate into its setting, maintaining the sense of spaciousness that exists, and would not appear as an incongruous feature given the presence of nearby dwellings and the surrounding domestic landscape. Taking the above into account the proposal would not harm the wider Principal Village Farmlands landscape.
14. Whilst I have given the appellant's artists impression of the proposal limited weight, there is no reason to suggest that an appropriate scale, appearance and layout could not be secured at technical details stage that respects the surrounding context.
15. As such it would accord with SWDP Policy 25 which, amongst other things, requires development proposals to be appropriate to, and integrate with the character of the landscape setting.

Other Matters

16. The Self Build and Custom Housebuilding Act 2015 requires local planning authorities to establish and publicise a local register of custom-builders who wish to acquire suitable land to build their own home. The Housing and Planning Act 2016 sets out that local planning authorities have a duty to grant planning permission in respect of enough serviced plots of land to meet the demand for self-build and custom housebuilding in the authority's area arising in each base period.
17. The PPG sets out that authorities who choose to set a local connection test are required to have two parts to their register. Individuals or associations of individuals who apply for entry on the register and meet all the eligibility criteria must be entered on Part 1. Those who meet all the eligibility criteria except for a local connection test must be entered on Part 2.
18. The PPG goes on to state that entries on Part 2 do not count towards demand for the purpose of the 2015 Act (as amended), but relevant authorities must have regard to the entries on Part 2 when carrying out their planning, housing, land disposal and regeneration functions.
19. The Framework identifies people wishing to commission or build their own homes as a distinct section of the community, for which the size, type and tenure of housing needed should be assessed and reflected in planning policies.
20. The Council's position is that they are meeting their duties in respect of The Act. They point to the Wychavon District Self-Build and Custom Housebuilding Register Progress Report (November 2021) as evidence.
21. The appellant takes a different view, making reference to a greater demand for plots than the Council acknowledges and uncertainty as to whether or not the permissions on which the Council relies can be counted towards their supply.

22. There is no substantive evidence to indicate that the Council have paid regard to providing sufficient plots for entries on both Parts 1 and 2 of the register as part of their planning function, which they are required to do so.
23. Turning to permissions the Council have counted proposals at Kington and Whittington for 6 units in their supply. However, it is apparent that the planning obligations are outstanding and formal planning permissions are yet to be issued. Therefore, there is still some uncertainty that these permissions will be granted, and the units could still fall away through the planning obligations not being completed. Furthermore, there is uncertainty whether the permissions granted at Bevere can reasonably be counted towards the Council's supply given their proximity to Worcester.
24. Whilst it is for each relevant authority to determine the rationale for introducing a local eligibility test. Based on the evidence presented by the Council I am not persuaded that the justification behind the eligibility criteria is robust, nor is there any indication that there is a local issue to justify it.
25. Taken collectively, I do not find the evidence presented by the Council to be compelling. The appellant's evidence before me is substantive enough to bring into question the position that has been set out. Therefore, I conclude that there is insufficient evidence to demonstrate that the Council is meeting its obligations under The Act. In such circumstances, the fact that the proposed development would deliver self-build and custom housing carries significant weight.

Planning Balance

26. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the Development Plan unless material considerations indicate otherwise.
27. Notwithstanding the debate regarding the Council's housing supply position there are no relevant development plan policies relating to self-build and custom building housing. In such instances the Framework states that where there are no relevant development plan policies permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Therefore, paragraph 11 d) of the Framework is engaged.
28. The proposed development would make a contribution towards the district's housing supply meeting a local need for self build and custom building plots. In this regard it would accord with Paragraph 62 of the Framework through providing housing for different groups in the community. It would also lead to social and economic benefits during the construction phase.
29. Although outside the settlement boundary, it is in a location that is within a reasonable distance of a range of day-to-day services. Future occupants would be able to reach these on foot, providing them with transport choice and not an over-reliance on a car. There would be some positive contribution to the vitality of the village as a rural community, thus in this regard it would accord with Paragraph 79 of the Framework.
30. The proposed development would be well contained within a domestic setting and would not encroach into the surrounding countryside. As such, I find that

the proposed development would protect the surrounding landscape in accordance with Paragraph 174 b) of the Framework.

31. Overall, these benefits would significantly and demonstrably outweigh the minor harm that I have identified in relation to its location beyond the settlement boundary of Crophorne when assessed against the policies in the Framework when taken as a whole. Therefore, the proposal benefits from the presumption in favour of sustainable development.
32. In this case the presumption in favour of sustainable development is a material consideration which outweighs the conflict with the development plan. A decision should thus be taken otherwise than in accordance with the development plan.

Conditions

33. The PPG makes it clear that it is not possible for conditions to be attached to a grant of permission in principle, whose terms may only include the site location, type, and amount of development. Therefore, I have not imposed any conditions. I do not find it necessary to include informative notes given the scope of a permission in principle.
34. The requirement for a planning obligation is a matter to be dealt with at technical details consent stage. As such it is not a matter for me in consideration of this appeal.

Conclusion

35. For the reasons set out above the appeal succeeds.

B Thandi

INSPECTOR