



Appeal Decisions

Site visit made on 21 June 2022

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 July 2022

Appeal A Ref: APP/H1840/W/21/3277955

Land to the east of Main Street, Bishampton WR10 2NL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Build1 against the decision of Wychavon District Council.
 - The application Ref 20/02738/OUT, dated 2 December 2020, was refused by notice dated 27 May 2021.
 - The development proposed is 6 self-build dwellings
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Appeal B Ref: APP/H1840/W/22/3291131

Land to the east of Main Street, Bishampton WR10 2NL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Build1 against the decision of Wychavon District Council.
 - The application Ref 21/02215/OUT, dated 16 September 2021, was refused by notice dated 18 November 2021.
 - The development proposed is 6 self-build dwellings.
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Decision

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

Procedural Matters

2. The applications have been submitted in outline with all matters reserved for future consideration, save for access. I have determined the appeals on this basis.
3. Illustrative layouts accompany the applications and I have paid regard to the layouts in so far as assessing the principle of development in land use terms.
4. In respect of Appeal A the appellant has submitted a signed Unilateral Undertaking (UU) stating that the proposed development would be for self-build dwellings and agreeing to a financial contribution towards affordable housing in the district. I have addressed this in my reasoning below.

Main Issues

5. The main issues in both appeals are:
 - Whether the proposed developments would be consistent with local and national policies relating to the location of new housing development;
 - The effect of the proposals upon the character and appearance of the area; and

- The effect of the proposals upon the setting of nearby listed buildings, namely Papplewicke Cottage and Berry Cottage.
- With regard to Appeal A, there is an additional main issue of whether the affordable housing contribution is required to make the proposal acceptable in planning terms.

Reasons

Location of site

6. Policy SWDP 2 of the South Worcestershire Development Plan (2016) (SWDP) outlines the development strategy for new development in the area. Part C sets out that permission for development in the countryside, outside the development boundary of settlements will be strictly controlled to development specifically permitted by other SWDP policies. The policy does not support the provision of market housing in countryside locations.
7. The site lies adjacent to existing residential development but nonetheless it is located beyond the settlement boundary of Bishampton. Therefore, new development outside of existing boundaries will be considered to be located in open countryside and this proposal has not been presented on the basis of any essential need for a countryside location.
8. Bishampton is a suitable location for new development and benefits from a number of services and facilities to meet residents' day to day needs. These services and facilities are directly accessible from the site by foot and motor vehicle. However, as the developments would be located beyond the settlement boundary of the village it would not be an appropriate location for new housing. As such, it would be contrary to Part C of Policy SWDP 2.

Character and appearance

9. The appeal site comprises an agricultural field located on the edge of Bishampton. It is flanked by heavily wooded areas to the north and south. The site neighbours existing housing in the form of linear development along Main Street with a more modern development to the north which has a greater depth. Despite this depth, the linear layout and spacing between houses results in spacious and porous development providing an appreciation of the open countryside beyond.
10. Notwithstanding the existing development on the edge of the village the open nature of the appeal site contributes to the rural character of the surrounding open countryside and provides an important setting to the village, despite it not being subject of a local or national designation.
11. I find that the introduction of the built form through new dwellings and the urbanisation of the site would significantly erode its verdant nature. The loss of this open area would unacceptably diminish the contribution it makes to the character and appearance of this part of the village through this urbanisation.
12. Despite the presence of landscaping along the boundaries the developments would be very apparent from the surrounding area spread over a great area of the site resulting in an unacceptable encroachment into open countryside.
13. I acknowledge that with the exception of the access detailed design matters would be considered at reserved matters stage and that the prominence of the

developments could be reduced at the detailed design stage. However, their position behind existing linear development would result in a greater depth of built form both visually and physically. They would be an uncharacteristic and intensely developed edge that would not be sympathetic to the surrounding rural character.

14. I conclude that the proposed developments would adversely affect the character and appearance of the area. It would be contrary to SWDP Policies 21 and 25 which, amongst other things, require developments to integrate effectively with its surroundings including landscape setting and complement the character of the area.

Heritage Impact

15. Neighbouring the site is a pair of Grade II listed cottages known as Papplewicke Cottage and Berry Cottage. The cottages are timber framed with later alterations and additions and date back to the 17th century. The listed buildings significance is informed by their architectural and historic interest as buildings dating back several centuries.
16. The extent of the setting of a heritage asset is not fixed and may change and be experienced differently as the asset and its surroundings evolve. Whilst the site is an area of green and undeveloped land I note, from the appellants evidence, that it is unlikely that a physical or historic link between the two existed.
17. There is a visual relationship due to the inter visibility between the site and Papplewicke Cottage and Berry Cottage. I acknowledge that the proposed developments would result in visual change. However, the immediate setting of the cottages is already defined by existing houses and domestic paraphernalia. In my view the site does not make an appreciable contribution to their setting despite its rural appearance.
18. There would be no change to an appreciation of the cottages from the highway and views from within the site and Public Right of Way would still be afforded. The cottages would continue to be read against existing built form and I find that the schemes would not unacceptably undermine their significance.
19. I conclude that the proposed developments would preserve the significance of Papplewicke Cottage and Berry Cottage in accordance with SWDP Policies 6 and 24 which, amongst other things, require developments to preserve or enhance heritage assets. It would also accord with the aims and objectives of the National Planning Policy Framework (the Framework) in respect of the historic environment.

Affordable housing contribution

20. With regard to Appeal A criterion B. iv. of SWDP Policy 15 states that on sites of between 5 and 9 dwellings 20% of the units should be affordable. Part C sets out that where robust justification exists off-site contributions may be acceptable instead. Paragraph 64 of the Framework permits local planning authorities to seek affordable housing on smaller sites in designated rural areas.
21. The appellant has provided a signed and dated UU as the mechanism by which to deliver a financial contribution towards affordable housing.

22. I am satisfied that the contribution would satisfy the tests for planning obligations set out in Regulation 122 of the Community Infrastructure Levy Regulations (2010). As such, whilst the submitted UU secures a financial contribution in lieu of affordable housing on site, I find that with specific regard to Appeal A, it overcomes the Council's concerns in relation to this matter.

Other Matters

23. 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.
24. The Planning Practice Guidance (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.
25. 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.
26. 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.
27. 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.
28. 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.
29. Based on the evidence before me there is sufficient uncertainty, in my mind, that the Council are delivering sufficient plots, including relying on plots which are yet to receive planning permission. Furthermore, 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.
30. 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.
31. 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 developments would deliver self-build and custom housing carries great weight.

Planning Balance

32. 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.
33. The Council contend that they can demonstrate a 5.76 year deliverable supply of housing land. However, the appellant has drawn my attention to a number of appeals¹ whereby Inspectors have questioned the Council's aggregated approach towards calculating their housing land figure across the SWDP geographical area. They have determined that the Council cannot demonstrate a deliverable supply. I attach great weight to these decisions which lead me to disagree with the Council's housing land supply position.
34. In terms of self-build and custom housebuilding I am not persuaded that the Council are meeting its obligations under The Act. In addition, there are no relevant development plan policies relating to self-build and custom-building housing in the SWDP.
35. In such instances paragraph 11(d) of the Framework and the 'tilted balance' is engaged. In so far as this appeal is concerned the Framework states that where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date 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.
36. Although the site is 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.
37. In terms of housing supply up to six dwellings would boost the supply of housing in the area, particularly in respect of self-build housing offering a wider choice of housing for the community. The schemes would also create short term employment during the construction phase and future occupiers would support the existing services in Bishampton. They would also deliver a contribution towards affordable housing in the district. These are all factors in the schemes favour.
38. I have found that the proposed developments would preserve the significance of nearby heritage assets. However, this is a matter of neutral consequence in the overall balance.
39. On the other hand, I have found that the proposals would adversely affect the character and appearance of the area through the urbanisation of a site that positively contributes to the village. I attach significant weight to this harm.
40. Consequently, the proposals would deliver some economic and social benefits. However, the environmental considerations weigh against the developments. I attach significant weight to this environmental harm as part of the

¹ Appeal Ref: APP/J1860/W/21/3267054, APP/J1860/W/19/3242098, APP/H1840/W/21/3289569 and APP/J1860/W/21/3289643

determination of the appeals. The economic and social benefits would not outweigh the harm I have identified.

41. Overall, I find that the benefits would be significantly and demonstrably outweighed by the harm that I have identified. Overall, I find that the adverse impacts of the proposed developments would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework when taken as a whole. The conflict with the development plan is not outweighed by other considerations including the Framework.

Conclusion

42. For the reasons set out above both appeals do not succeed.

B Thandi

INSPECTOR