



Appeal Decision

Site visit made on 14 June 2022

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 July 2022

Appeal Ref: APP/H1840/W/22/3290275

Land at Station Road, Broadway WR12 7DE

- 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 Mrs Nikki Harrison against the decision of Wychavon District Council.
 - The application Ref 21/01855/FUL, dated 7 June 2021, was refused by notice dated 23 September 2021.
 - The development proposed is infill development of one dwelling, with associated driveway, car parking and landscaping. Provision of additional passing bay to shared driveway.
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Decision

1. The appeal is allowed and planning permission is granted for infill development of one dwelling, with associated driveway, car parking and landscaping. Provision of additional passing bay to shared driveway at land at Station Road, Broadway WR12 7DE in accordance with the application 21/01855/FUL, dated 7 June 2021, subject to the conditions set out in the schedule to this decision.

Procedural Matters

2. The Examiners Report, Addendum and Explanatory Note in relation to the Broadway Neighbourhood Development Plan (NP) have been published since the appeal was submitted. The Framework in paragraph 48 sets out that the weight to be given to relevant policies in emerging plans varies according to the stage of preparation, the extent to which there are any unresolved objections and consistency with the Framework. As the NP has not been "made" I afford it limited weight in coming to my decision.
3. The appellant has produced a signed and dated planning obligation by Unilateral Undertaking under Section 106 of the Town and Country Planning Act 1990 that would ensure that the proposed development would be a self-build unit. It also secures a contribution towards affordable housing in the district. Consequently, the Council advise they no longer wish to defend the third reason for refusal. I therefore have not addressed this matter in the reasoning below.

Main Issues

4. The main issues are:
 - Whether the proposed development would be consistent with local and national policies relating to the location of new housing development; and

- The effect of the proposed development upon the character and appearance of the area.

Reasons

Appropriate location

5. Policy SWDP2 of the South Worcestershire Development Plan (2016) (SWDP) sets out the development strategy for new development in the district. Part C states that land beyond any development boundary will be considered to be located within open countryside. Development in the countryside 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.
6. The site lies adjacent to existing residential development but nonetheless is located beyond the settlement boundary of Broadway. Therefore, new development outside of existing boundaries will be considered to be located in the countryside and this proposal has not been presented on the basis of any need for a countryside location.
7. Broadway is classed as a Category 1 Village and 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, motor vehicle and public transport in the form of a bus service. However, as the development would be located beyond the settlement boundary of Broadway it would not be an appropriate location for new housing. As such, it would be contrary to SWDP Policy 2.

Character and appearance

8. The appeal site is formed of a parcel of land with a gravel track leading to fields behind which provide a verdant setting to Broadway. It forms a gap between two dwellings that sit at the top of the road, with large open frontages, that sit in open countryside and recently completed dwellings further down the hill arranged in a linear manner. The site is open and undeveloped contributing to the spacious character of the area, but it is heavily managed having a domestic appearance and is influenced by the surrounding built form.
9. I acknowledge that the proposed development would not significantly undermine the appreciation of the wider countryside which provides a landscape setting to the village. Nonetheless, it would diminish the existing gap in the built form which makes a contribution to the prevailing spacious character of the immediate area. There would be a degree of urbanisation as a result of the development notwithstanding it reflecting the established pattern of housing along the road.
10. As such, the development would result in harm to the character and appearance of the area. It would not accord with SWDP Policy 25 which, amongst other things, requires developments to be appropriate to and integrate with the character of the landscape setting.

Other Matters

11. I have considered the representations received in relation to the appeal. Based on observations at my site visit and taking into account the advice of the

Highway Authority, I am satisfied that the access road would be able to accommodate additional housing, associated movements and that the proposed development would not harm highway safety.

12. There is no substantive evidence before me to suggest that the development would adversely impact upon drainage, particularly as the Council's Drainage Engineer did not object to the planning application.

Planning Balance

13. 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.
14. 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 recent appeal decision¹ whereby the Inspector questioned the Council's aggregated approach towards calculating housing land supply across the SWDP geographical area and determined that the Council cannot demonstrate a deliverable supply. I attach great weight to this decision which leads me to disagree with the Council's housing land supply position.
15. 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.
16. The Council have not provided any evidence to demonstrate that it is meeting its obligations under the Act. As such, the appellant's evidence before me is compelling enough to cast doubt in relation to the provision of such plots in the district. In such circumstances, the fact that the proposed development would deliver self-build housing carries great weight. Furthermore, there are no relevant development plan policies relating to self-build and custom-building housing in the SWDP.
17. In such instances paragraph 11(d) of the National Planning Policy Framework (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.
18. The Council have referred to a previous appeal decision² for a new dwelling on the appeal site. I understand at the time of the previous appeal the Council could demonstrate a deliverable supply of housing land, which they are now unable to do. This is a material difference between the two applications which is to be weighed in the planning balance. Whilst I have paid regard to the previous Inspector's conclusions, I am not bound by their decision. Every appeal must be considered on its own merits, as I have done.

¹ Appeal Ref: APP/J1860/W/21/3289643

² Appeal Ref: APP/H1840/W/18/3213004

19. The proposed development would make a contribution towards the district's housing supply. The completed UU would secure the proposal as a self build unit. As such, it would accord with Paragraph 62 of the Framework by providing housing for different groups in the community. It would also lead to social and economic benefits with the financial contribution towards affordable housing and jobs during the construction phase. I attach great weight to these benefits.
20. 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 and by public transport, providing them with transport choice and not an over-reliance on a car. There would be some positive contribution to the vitality of Broadway as a rural community, thus in this regard it would accord with Paragraph 79 of the Framework.
21. Whilst the proposed development would lead to an erosion of the gap between dwellings and a loss of openness, I find this harm would be minor. The proposal would be well related to existing built form, sitting next to a largely continuous built-up frontage along the road. It would be well contained and read as part of the village rather than 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.
22. Overall, these benefits would significantly and demonstrably outweigh the minor harm that I have identified in relation to its location within the countryside and its effect upon the character and appearance of the area 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.
23. 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

24. I have considered conditions in relation to the contents of both the Framework and Planning Practice Guidance. In the interests of precision, clarity and brevity I have undertaken some rationalisation of the conditions suggested by the Council.
25. In addition to the standard three-year time limit condition for implementation; it is necessary to specify the approved plans in the interests of certainty.
26. A condition for details of the landscaping and boundary treatment has been imposed to ensure satisfactory appearance of the development.
27. Conditions requiring at least 10% of the energy supply of the development to be from renewable or low carbon energy sources and for the development to be carried out in accordance with the submitted Water Management Statement and for electric vehicle charging points have been imposed in the interests of achieving sustainable development.
28. In the interests of human health a condition for gas protection measures within the foundations has been imposed.

29. The Council has suggested a condition for a construction management plan. However, I note that details have been submitted as part of the application. Given the small scale of the development I find the submitted details satisfactory. However, for completeness I find it necessary to impose a condition ensuring that the details are adhered to for the duration of the construction works.

Conclusion

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

B Thandi

INSPECTOR

Schedule of 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 plans: Site and Location Plan Drawing Number 001; Existing Site Plan Drawing Number 002; Proposed Site Block Plan Drawing Number 101; Proposed Floor Plans Drawing Number 102; Proposed Elevations Drawing Number 103; Cross section through site Drawing Number 104; Proposed street scene elevations Drawing Number 105 and Construction Management Plan Drawing Number 401.
- 3) Gas protection measures complying with Characteristic Situation 2 as set out in BS8485:2015 and CIRIA C665 as a minimum requirement must be incorporated within the foundations of the proposed dwelling. Following installation of these measures, and prior to the first occupation of the development, a verification report shall be submitted to and approved in writing by the local planning authority.
- 4) The development shall not be occupied until details of renewable and/or low carbon energy generation measures shall be submitted to and approved in writing by the local planning authority. The measures shall contribute to at least 10% of the predicted energy requirements of the development.
- 5) The development shall not be occupied until there shall have been submitted to and approved in writing by the local planning authority a scheme of landscaping and boundary treatment. Development shall be carried out in accordance with the approved details. 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) The development shall not be occupied until it has been fitted with an electric vehicle charging point. The electric vehicle charging point shall be retained for the lifetime of the development.
- 7) Prior to the first occupation of the development, the details set out in the submitted Water Management Statement shall be fully implemented and shall be retained thereafter for the lifetime of the development.
- 8) The Construction Management Plan shown on Drawing Number 401 shall be adhered to throughout the construction period for the development.