



Appeal Decision

Site visit made on 31 August 2022

by Helen Smith BSc (Hons) MSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 October 2022

Appeal Ref: APP/H1840/W/22/3297098

Brenwynne, Sixteen Acres Lane, Bickmarsh B50 4PA

- 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 Doreen Allen against the decision of Wychavon District Council.
 - The application Ref 21/02404/FUL, dated 13 October 2021, was refused by notice dated 22 December 2021.
 - The development proposed is described as “erection of 2 new dwellings on land adjacent to Brenwynne, Sixteen Acres Lane, Bickmarsh, B50 4PA.”
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant’s Statement of Case refers to the National Planning Policy Framework (Framework) (2019). This version of the Framework has been superseded by the Framework (July 2021). The relevant policy of the Framework (2021) was referred to in the Council’s decision notice, and consequently no parties have been prejudiced by me having regard to the Framework (2021) in reaching my decision.

Main Issues

3. The main issues are:
 - Whether the site is a suitable location for the proposed housing, with regard to access to essential services and facilities.
 - Whether it has been demonstrated that the proposal would secure the provision of an off-site affordable housing contribution.

Reasons

Suitability of Location

4. The appeal site is a plot of land located to the side of Brenwynne, which is a detached dwelling situated at the end of a small cluster of dwellings on Sixteen Acres Lane. The surrounding area is rural.
5. Policy SWDP2 of the South Worcestershire Development Plan (SWDP) (2016) sets out the development strategy and settlement hierarchy. Part C of Policy SWDP2 strictly controls development within open countryside, limited to certain exceptions and those specifically permitted by other SWDP policies.

6. The proposal is for open market housing that would be located outside any defined development boundary and, consequently, would be within an area of open countryside. The proposal conflicts with Policy SWDP2 Part C, as it does not meet any of the exceptions where development in the open countryside is considered appropriate. Consequently, the proposal conflicts with the locational strategy and exceptions of the development plan.
7. The appellant describes the appeal site as garden land and suggests that it should be considered as previously developed land. During my site visit, I observed that there is a small, dilapidated greenhouse on site but the site itself appeared vacant and unkept. Part G of Policy SWDP2 gives encouragement to the redevelopment of brownfield sites. Nevertheless, this would not negate the need for the development to meet the locational criteria outlined in Policy SWDP2 Part C.
8. The appeal site is located at the end of a small cluster of dwellings that sit along a short stretch of Sixteen Acres Lane. I note that both parties are in agreement that the appeal site is not isolated, given its proximity to existing dwellings. Therefore, I am satisfied that the appeal site is not isolated in the context of paragraph 80 of the National Planning Policy Framework (Framework), which sets out that new isolated homes should be avoided in the countryside.
9. However, the appeal site's lack of isolation with regard to paragraph 80 of the Framework does not mean that the site would be reasonably accessible to services when considered in the context of other requirements of the Framework.
10. The appeal site is located in Bickmarsh, which does not have any shops, services or facilities. The nearest main settlements to the appeal site are Bidford-on-Avon and Cleeve Prior, which are both around 2km away. To access services and facilities, the occupants of the proposed dwellings would have to walk and cycle along Sixteen Acres Lane. Along the road, the occupants would have to share the carriageway with vehicles, as the road has no footpaths or street lighting. In addition, the road is narrow, and vehicles are likely to be travelling at fast speeds. Therefore, the route would be unsuitable for walking, cycling, children's pushchairs, wheelchair users, or people with limited mobility.
11. Although it has been raised that there is a bus service nearby, I have not been provided with a timetable and so cannot be certain that the routes or timings would be viable for the typical daily needs of future occupiers. Furthermore, in the absence of safe pedestrian footpaths and street lighting in the vicinity of the site, future occupants are more likely to rely on private vehicles rather than to undertake local journeys by sustainable modes of transport, such as bus or train services.
12. Whilst there are Public Rights of Way near to the site, these routes would be unlit, which would limit their use during hours of darkness and are unlikely to be suitable for all users.
13. For the reasons above, essential services and facilities, and public transport, would not be readily accessible from the appeal site. Therefore, the occupants would be largely reliant on private vehicles to access essential services and facilities, due to the lack of safe pedestrian and cycle routes and having limited options for alternative modes of sustainable transport.

14. Whilst the appeal site is within the curtilage of the existing dwelling, the proposal would not represent infill development as the site is positioned at the end of the existing built form rather than within a built-up frontage. The site's undeveloped open nature emphasises a transition from the built form to the rural context beyond.
15. My attention has been drawn to other appeal decisions in which development was approved in an area of open countryside. However, the appellant has not provided me with evidence as to why these appeals are specifically relevant to the current appeal. I have not been provided with the full details and do not know the context and circumstances in which these other appeals were considered in relation to the open countryside. Therefore, these examples have not been determinative in my consideration of this appeal.
16. For the reasons above, the proposal fails to accord with Policy SWDP2, which seeks to direct new development towards sustainable areas within development boundaries and strictly controls development within the open countryside. The proposal's harmful encroachment into the open countryside indicates that the proposal would not be sustainable development and therefore conflicts with Policy SWDP1 of the SWDP (2016). In addition, the proposal would fail to accord with the Framework in respect of achieving sustainable development.

The provision of an off-site affordable housing contribution

17. As the site is located within a Designated Rural Area, were the proposal to be granted planning permission, a financial contribution towards local affordable housing provision would need to be made. The appellant has referred to a Section 106 legal agreement to secure the provision of an off-site affordable housing contribution. However, I do not have a Section 106 legal agreement before me. In the absence of such an agreement I am unable to conclude whether the provision of an off-site affordable housing contribution can be secured.
18. It would not be appropriate to seek to resolve this matter by means of a condition because, based on the information before me, the financial sum has not yet been formally agreed between the main parties. Therefore, in this case, a condition would fail the tests detailed in paragraph 56 of the Framework. Furthermore, the Planning Practice Guidance (PPG) advises that: "A negatively worded condition limiting the development that can take place until a planning obligation or other agreement has been entered into is unlikely to be appropriate in the majority of cases." (Paragraph: 010 Reference ID: 21a-010-20190723).
19. The PPG also advises: "in exceptional circumstances a negatively worded condition requiring a planning obligation or other agreement to be entered into before certain development can commence may be appropriate, where there is clear evidence that the delivery of the development would otherwise be at serious risk (this may apply in the case of particularly complex development schemes). In such cases the 6 tests should also be met." (Paragraph: 010 Reference ID: 21a-010-20190723). However, the proposal does not fall into the category of a particularly complex development scheme and the 6 tests, as referred to in paragraph 56 of the Framework and the PPG, would not all be met. Therefore, in this case, it is not possible to deal with the matter by means of a condition.

20. Therefore, the proposal fails to accord with Policies SWDP1, SWDP7 and SWDP15 of the SWDP (2016), where they seek to ensure new development meets the objectives of sustainable development.
21. In addition, the proposal conflicts with guidance in the Council's South Worcestershire Developer Contributions SPD (2016) and the Affordable Housing SPD (2016), which seek to ensure the delivery of affordable housing.

Planning Balance

22. The proposal would deliver two dormer bungalows that would make a small contribution to the identified need for accommodation suitable for older people. This would enable additional choice in this respect, albeit there is no mechanism to secure them for that purpose. They would also be suitable for families with dependent children and make a positive contribution to the local housing supply on a small windfall site. In addition, the proposal would help to maintain and enhance the viability of local services and facilities and contribute to the vitality of the community, as well as make an economic contribution during the construction period and subsequently from future occupiers in terms of spending in the local area. However, as the proposal is for only two dwellings, these benefits would be modest.
23. The proposal would also provide additional surveillance to the road, would be constructed to standards in excess of current Building Regulations and would be energy efficient, including the provision of renewable energy sources. I attribute limited weight to these benefits.
24. The proposal would enable the appellant and their family to remain at their property. Whilst acknowledging such intentions, they amount to personal benefits which, in the context of the wider planning considerations relating to this appeal, attract only limited weight.
25. Reference is made to the proposal's social benefits in terms of diversity of house types which would contribute to the Council's duty under the 2015 Act. However, it is not clear what exactly this is referring to. I therefore attach limited weight to it.
26. The Council's Statement of Case indicates that they do not have a five-year housing land supply. The Council refer to a supply of 4.31 years; this figure has not been disputed by the appellant. The lack of a 5-year housing land supply means that the policies which are most important for determining the proposal are out-of-date, in accordance with paragraph 11d) of the Framework. However, part ii. of paragraph 11d) clarifies that permission should not be granted if any adverse impacts of doing so would significantly and demonstrably outweigh the benefits. There would be harm arising from this proposal that is so significant that the adverse impacts of granting permission relating to the two main issues would significantly and demonstrably outweigh the benefits, when assessed against the policies and the Framework taken as a whole. This provides a clear reason for refusing the development. Therefore, the proposal would not benefit from the presumption in favour of sustainable development.

Conclusion

27. The proposal conflicts with the development plan as a whole, and there are no material considerations worthy of sufficient weight that would indicate a decision other than in accordance with it. The appeal is therefore dismissed.

Helen Smith

INSPECTOR