



Appeal Decision

Site visit made on 7 September 2022

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 November 2022

Appeal Ref: APP/H1840/W/22/3297739

Land at Church Lane, Whittington

- 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 Mrs N Rogers against the decision of Wychavon District Council.
 - The application Ref 21/02272/OUT, dated 24 September 2021, was refused by notice dated 18 March 2022.
 - The development proposed is 2no. self-build dwellings.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application has been submitted in outline with all matters reserved for future consideration. I have determined the appeal on this basis.
3. An illustrative layout accompanies the application and I have paid regard to the layout in so far as assessing the principle of development in land use terms.

Main Issues

4. The main issues are:
 - The effect of the proposed development upon the character and appearance of the area and the Significant Gap; and
 - Whether the affordable housing contribution is required to make the proposal acceptable in planning terms.

Character and appearance

5. Whittington is a dispersed settlement that sits within an area formed of largely undeveloped land between the M5 motorway and Worcester. The area is a designated Significant Gap which acts as a buffer and visual break between rural settlements and adjacent urban areas.
6. The appeal site is located on the northern side of Church Lane characterised by sporadic development reflecting the rural character of the area. The appeal site whilst neighbouring existing housing sits in an area of open countryside that provides a verdant and open buffer between the dispersed built form. This is in contrast to the southern side of the road, which is defined by ribbon development, including new development under construction. These developments have resulted in an almost continuous run of housing along the

southern side of Church Lane and combined with Berkeley Close has a more suburban appearance.

7. I acknowledge that the site represents a small part of the overall Significant Gap and the proposed development would not result in the merging of settlements. However, the introduction of built form, associated infrastructure and residential paraphernalia would erode its undeveloped nature diminishing the contribution it makes to the openness of the Significant Gap and to the character of the village.
8. I acknowledge that detailed design matters would be considered at reserved matters stage and that the prominence of the development could be reduced at this stage including through landscaping. However, it would significantly be at odds with the dispersed pattern of development on this side of the road which is noticeably different and verdant in comparison to the opposite side of Church Lane.
9. Whilst the South Worcestershire Development Plan Review Preferred Options 2019 recommends amendments to the Significant Gap this is limited to the removal of the area south of the appeal site. Based on the evidence before me the appeal site and the area between Church Lane and Worcester would be retained as a Significant Gap.
10. Although not at a stage where it carries significant weight in my decision, it still indicates that the area between the north of Church Lane and Worcester plays an important role providing a buffer and visual break between Whittington and Worcester.
11. The appellant has made reference to an appeal decision for a development on the opposite side of the road which they consider relevant to the scheme before me. Whilst the area is not devoid of development the southern side of Church Lane is influenced by built form including Berkeley Close and the motorway. In my view, it is in contrast to the northern side of the road, which is more rural in character and appearance with dispersed development. In any case, every appeal must be considered on its own merits. The presence of other developments in the area does not justify the harm that I have identified.
12. As such, I conclude that the proposed development would adversely affect the character and appearance of the area contrary to Policies SWDP 2 and SWDP 21 of the South Worcestershire Development Plan (2016) (SWDP) which, amongst other things, seek the retention of the open character of Significant Gaps, developments to complement the character of the area and safeguard the distinct identity and character of settlements.

Affordable housing contribution

13. Part B v. of SWDP Policy 15 sets out that on sites of less than 5 dwellings a financial contribution equivalent in value to 20% of the units will be sought towards providing affordable housing. Paragraph 64 of the National Planning Policy Framework (the Framework) permits local planning authorities to seek affordable housing on smaller sites in designated rural areas.
14. The appellant has indicated a willingness to provide a planning obligation and 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). However, the necessary planning obligation has not been

provided and thus there is no mechanism by which to secure the necessary contributions. The contributions cannot be secured by condition.

15. Consequently, the proposal fails to meet the requirements of SWDP Policy 15 and paragraph 63 of the Framework which seek to secure affordable housing.

Planning Balance

16. 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.
17. Whilst they advise that they are working to address the shortfall, the Council accept that they have not granted sufficient permissions, in this period, to meet their self-build and custom housebuilding duties in respect of the Self Build and Custom Housebuilding Act 2015. In addition, there are no relevant development plan policies relating to self-build and custom-building housing in the SWDP.
18. 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.
19. The construction of two new dwellings would make a small contribution towards the supply of self-build housing. It is in a location that is within a reasonable distance of a range of day-to-day services and future occupants would help maintain or enhance the vitality of services and facilities locally.
20. The proposal would generate employment during the construction phase and would promote high quality, innovative and sustainable design. These are all factors in favour of the proposal.
21. The proposed development would contribute towards supporting local facilities through Council Tax. However, this would largely mitigate the impact of the proposal in planning terms. As such, this is a matter of neutral consequence in the balance.
22. On the other hand, I have found that the proposal would adversely affect the Significant Gap and would be harmful to the character and appearance of the area. In addition, the absence of a planning obligation and the adverse impact of failing to provide adequate provision of affordable housing would significantly and demonstrably outweigh the moderate social and economic benefits set out above.
23. Overall, I find that the adverse impacts of the proposed development would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework when taken as a whole. Consequently, the presumption in favour of sustainable development does not apply and I have no reason to take a decision other than in accordance with the development plan.

Conclusion

24. For the reasons set out above the appeal does not succeed.

B Thandi

INSPECTOR