



Appeal Decision

Site visit made on 23 November 2022

by Rachel Hall BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 January 2023

Appeal Ref: APP/R1845/W/22/3304207

16/18 Birmingham Road, Blakedown, Kidderminster DY10 3JE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Mr G Warr of Eleven Eleven Property Limited against the decision of Wyre Forest District Council.
 - The application Ref 21/0604/FUL, dated 10 June 2021, was approved on 8 July 2022 and planning permission was granted subject to conditions.
 - The development permitted is conversion and extension of existing properties to 3no. dwellings, together with construction of 3no. bungalows to rear.
 - The condition in dispute is No 16 which states that:
"Prior to the first disposal of the three bungalows hereby approved, a Sales Marketing Plan that sets out the actions to be taken to advertise the properties for sale to persons who meet the Local Connection requirements set out below shall be submitted to and approved in writing by the Local Planning Authority. The property or properties shall be marketed in accordance with the approved Sales Marketing Plan. The Sales Marketing Plan shall include provision for marketing in accordance with the following procedure: 1. For a period of no less than twelve weeks from the date that the property is first marketed for disposal pursuant to the approved Sales Marketing Plan ("the Marketing Date") a sale may only be agreed to a person or persons from Churchill and Blakedown Parish (A "Qualifying Person"); 2. After a period of twelve weeks from the Marketing Date if no sale has been agreed (subject to contract), to a Qualifying Person, the Developer shall provide 14 days written notice to the Local Planning Authority along with a marketing report for the properties prior to the bungalow being sold on the open market with no Local Connection requirement. The Sales Marketing Plan shall also include detailed provision of retaining details of the interest of other persons who meet the Local Connection Requirements and the process of giving priority to such persons, should any agreed sale not proceed to completion. Local Connection Requirements require that a person is one: a. who is ordinarily resident in the Parish, or b. whose family are ordinarily resident in the Parish and has lived there for the last 5 years c. who is employed within the Parish in a permanent job and has been for the previous 6 months."
 - The reason given for the condition is: *"To ensure the proposal complies with the requirements of Policies SP.6 and SP.11 of the Adopted Local Plan."*
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Decision

1. The appeal is allowed and the planning permission Ref 21/0604/FUL for conversion and extension of existing properties to 3no. dwellings, together with construction of 3no. bungalows to rear at 16/18 Birmingham Road, Blakedown, Kidderminster DY10 3JE granted on 8 July 2022 by Wyre Forest District Council, is varied by deleting conditions 16.

Applications for costs

2. An application for costs was made by Mr G Warr of Eleven Eleven Property Limited against Wyre Forest District Council. This application is the subject of a separate decision.

Background and Main Issues

3. The above planning permission was granted subject to a condition requiring submission of a Sales Marketing Plan for the proposed bungalows. This requires that prior to their first disposal, the bungalows should be advertised for sale to persons who meet specified local connection requirements. The Council's intention for this condition was to prioritise the bungalows for the needs of local residents or those with a family or work connection with the parish. The appellant objects to the condition as they consider it is not justified by any relevant planning policy.
4. Therefore the main issue is whether the condition is reasonable or necessary in the interests of ensuring the proposed bungalows meet local housing needs.

Reasons

5. At the time of writing the Council's officer report, the Wyre Forest District Local Plan 2016-2036 (Local Plan) had not yet been adopted, however its relevant policies were afforded substantial weight due to its advanced stage. The Local Plan was subsequently adopted in April 2022, shortly before planning permission was granted for the appeal scheme. It is not a matter in dispute between the main parties that the location of the proposed bungalows accords with the Local Plan, being within the settlement boundary.
6. In addition, the Council's officer report makes reference to a need for two bedroom bungalows, with reference to the Housing Needs Survey dated 2015. Furthermore, both parties acknowledge that there is support for new bungalows within the Churchill and Blakedown Neighbourhood Plan 2016 to 2026, in order to meet the needs of mature residents seeking to downsize. Accordingly, the proposed bungalows would help deliver housing of a type that is needed in the locality.
7. The proposal is not submitted as self-build or custom housebuilding whereby the authority may opt to set a local connection test in their self-build and custom housebuilding register, were they have a strong justification for doing so. Furthermore, it is not submitted that there is exceptional demand for bungalows within the parish that might form part of a justification for the restricting their first disposal as specified in the condition. In addition, no specific policy basis for the local connection condition has been provided, aside from the general requirement for such proposals to be of a type that would provide for local housing needs. Accordingly, and in the absence of robust evidence to the contrary, a condition to limit the benefits of this planning permission to individuals with a local connection is not justified.
8. Therefore I find that condition 16 is not reasonable or necessary in the interests of meeting local housing needs. The development without the disputed condition would comply with Policies SP.6 and SP.11 of the Local Plan. Amongst other matters, these seek to ensure that proposals meet local housing needs.

Conclusion

9. For the reasons given above, I conclude that the appeal should be allowed and I vary the planning permission by deleting the disputed condition.

Rachel Hall

INSPECTOR