



Appeal Decision

Site visit made on 28 February 2023

by K Stephens BSc (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29TH March 2023.

Appeal Ref: APP/P1805/W/22/3309821

The Gables, Ash Lane, Hopwood, Alvechurch B48 7TT

- 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 Mr Neal Harper against the decision of Bromsgrove District Council.
 - The application Ref 21/01794/FUL, dated 27 November 2021, was refused by notice dated 6 July 2022.
 - The development proposed is erection of one pair of semi-detached dwellings.
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Decision

1. The appeal is allowed, and planning permission is granted for erection of one pair of semi-detached dwellings at The Gables, Ash Lane, Hopwood, Alvechurch B48 7TT in accordance with the terms of the application Ref 21/01794/FUL, dated 27 November 2021, and the plans submitted with it, subject to the conditions in the attached schedule.

Preliminary Matters

2. The site is in the Green Belt. The parties agree that the erection of the 2 dwellings would constitute limited infilling in a village and hence would fall within the exception set out in paragraph 149e) of the National Planning Policy Framework (the 'Framework') and is therefore not inappropriate development in the Green Belt. It would comply with Green Belt Policy BDP4 of the Bromsgrove District Plan¹ (the District Plan). Having regard to the evidence before me and what I saw on my site visit I have no reason to take a different view.
3. As the proposal would not amount to inappropriate development under paragraph 149e) there is no need for me to consider the impact on the openness of the Green Belt or whether very special circumstances exist.

Main Issues

4. In light of the above and the Council's reasons for refusal, the main issues in this appeal are:
 - Whether the proposal would be an unsustainable and unsafe form of development for highway users with regard to the condition of Ash Lane,
 - Whether the proposal would accord with local policies and national guidance with regard to location of housing, and

¹ adopted January 2017

- Whether the proposal would provide an appropriate housing mix.

Reasons

Sustainability and safety of highway users

5. District Plan Policy BDP16 recognises that the private car remains the dominant mode of travel in a largely rural district and acknowledges the associated impact this can cause to air quality, noise and carbon emissions. As the location of development can influence how residents choose to travel, the Council seeks to promote sustainable development and encourage, where possible, alternatives to the car. Hence, new development should take the opportunity to enhance walking and cycling wherever possible. Policy BDP1 is a broad-brush policy that promotes the principles of sustainable development and requires development to have regard to, amongst other things, access to public transport.
6. The appeal site is in the village of Hopwood fronting Ash Lane that goes through the village. Due to the narrowness/insufficient carriageway width of Ash Lane, the Highway Authority is concerned that a safe route for pedestrians cannot be provided and this in turn would deter people from walking, especially in darkness and inclement weather, and instead encourage reliance on the private car.
7. Ash Lane is subject to a 30 mph speed limit through the village from the tight bend to the east of the appeal site to near the junction with the A441 in the west. The lane narrows in places, but not unduly so and two cars can pass with care. There are dwellings on both sides of the lane, most set back with driveways, as well as a garden nursery. I saw some cars parked on the verge and road. Some vehicles were also parked at right angles to the road, in front of a row of terraced houses near the A441 end of the village, overhanging the highway. There is no street lighting, save for a single lighting column part way along, no pavement and no parking restrictions.
8. The Highway Authority accepts that the proposed two, 3-bedroom dwellings would have a negligible effect on traffic increase but refer to the fact the appellant has not submitted speed survey data to determine the lengths of the visibility splays, which are shown but not specified on the plans. Speed survey data was submitted with the application for two dwellings that were recently granted planning permission² on the site adjacent to the appeal site (the 'adjacent planning permission'). I have not been advised of any material change in circumstances and hence there seems to be little justification for requiring further similar surveys that would likely reach the same conclusion. I am satisfied that in this instance visibility splays could be conditioned.
9. I accept the lack of a footpath along Ash Lane is not ideal and could deter some people from walking, particularly in darkness or inclement weather. However, Ash Lane is not in a remote rural area. Indeed, Hopwood is a settlement the Council has identified in the District Plan to receive infill development, and which was chosen, amongst other things, for its location for access to services/facilities to help reduce the need to travel and to create sustainable communities, irrespective of a lack of footpath along Ash Lane.

² LPA ref: 20/00361/FUL and amended by 21/00753/FUL (the adjacent planning permission)

10. Existing residents of Ash Lane, including those that live beyond, adjacent and opposite the appeal site, already have to negotiate Ash Lane and its inadequacies to walk or cycle to the bus stops, the public house and petrol station with its shop, all located on the A441, which I found were within a reasonable walking distance of the site. I also note that the recently granted 'adjacent planning permission' for a similar pair of semi-detached dwellings is on land beyond the appeal site, further away from the village envelope and the facilities on the A441. The houses are now built and occupied, and those residents also have to use Ash Lane in its current state.
11. The Officer Report for the 'adjacent planning permission' explained that, following the submission of a speed survey and a Highway Technical Note, the Highway Authority concluded there would not be an unacceptable impact arising from the development, subject to conditions, and raised no objection.
12. The Highway Authority now comment that, having reviewed matters, it should have recommended refusal for the previously approved dwellings based on inadequate pedestrian provision. That may be so, but apart from the Highway Authority now having concerns, I have not been presented with any substantive evidence that the proposed development, with negligible traffic increase, is any less sustainable or materially different to the adjacent planning permission, or would cause unacceptable safety issues, or that factors indicate there has been a significant change in highway circumstances to warrant a different decision. Furthermore, Hopwood remains a settlement identified to receive small-scale development.
13. I am advised that the bus service is not very frequent and would make people more reliant on the private car. That as may be, but the frequency of bus services is beyond the control of planning.
14. On balance, I am satisfied that the proposal for 2 dwellings in an existing built-up frontage within an established village identified in the development plan to receive new housing would not result in an unduly unsustainable form of development or result in unacceptable harm to highway users. Accordingly, I do not find conflict with District Plan Policies BDP1 and BDP16.

Location of housing

15. District Plan Policy BDP2 sets out the Council's settlement hierarchy with Bromsgrove as the main focus for new development. Hopwood is listed as a 'small settlement' where appropriate development within the settlement boundary, or village envelope, will be limited to suitable infill plots. Alvechurch Parish Neighbourhood Plan³ (the APNP) expands this with its own housing Policy H2. Well-designed residential development in Hopwood will be supported subject to a number of criteria.
16. Under criterion b) development should not be 'back garden development'. Neither the policy or supporting text explains or defines what is meant by 'back garden development'. The appeal site clearly comprises garden belonging to The Gables, as was evident from my visit. However, the part of the garden for the appeal site is located to the side of the house, not behind it, and also fronts Ash Lane. The proposed dwellings would therefore sit to the side of The Gables and continue the built-up frontage along Ash Lane. The

³ Made February 2019

area of garden to the rear of The Gables will remain. Consequently, I do not regard the development to be 'back garden' development and therefore find no conflict with Policy H2b).

17. Criterion f) requires development to be sited within the built-up area of Hopwood and not involve the outward extension of the village envelope, as shown on the proposals map. The APNP proposals map for Hopwood draws the village envelope around parts of housing along Ash Lane and along the A441 Redditch Road. The appeal site is clearly located outside the Hopwood Village Envelope.
18. I saw that the village envelope does not include all the housing in the village or along Ash Lane. A substantial number of properties front Ash Lane and extend built development eastwards beyond the village envelope. There are also a number of properties that lie east of and beyond the appeal site, including those constructed under the adjacent planning permission, such that the appeal site actually lies closer to the village envelope and the services/facilities on the A441 than some existing properties. The proposal would not, therefore, involve any further outward extension of the village itself. Indeed, the site was found to be infill within the village as part of the Green Belt assessment, when having regard to the situation on the ground. Nonetheless, the site's location outside the village envelope renders the proposal contrary to APNP Policy H2f).
19. The proposal would, however, accord with other criteria of APNP Policy H2, namely it would represent limited infill and would maintain the continuity of an existing frontage of buildings. The Council raises no concerns about the design of the dwellings or any adverse effects on the character of the locality. I shall discuss housing mix criterion d) separately below.

Housing mix

20. The proposed dwellings are designed to be a pair, and each would have 3-bedrooms. Criterion d) of APNP Policy H2 requires housing development to provide at least one small home with two or fewer bedrooms for every one large dwelling with three or more bedrooms. As it does not, the proposal does not provide the required housing mix and hence is contrary to APNP Policy H2d).

Planning Balance

21. The Council cannot currently demonstrate a 5-year supply of housing land. Therefore, policies which are most important for determining the application, namely APNP Policy H2, are considered out-of-date and the 'tilted balance' set out within paragraph 11d) ii) of the Framework is engaged. This requires that 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.
22. I have found that the proposal would conflict with two criteria of APNP Policy H2. However, given that the proposed development would be acceptable infill development and would not extend the village beyond its existing built-up limits because there are existing dwellings beyond the appeal site, including the two dwellings constructed under the adjacent planning permission, I give that conflict limited weight.

23. Furthermore, strict adherence to this policy would frustrate the Council's ability to address the shortage of housing. The proposed two dwellings would contribute, albeit modestly, towards the delivery of the district's housing requirement in a settlement identified to receive limited infill development, which the proposal would be. I have no reason to doubt the dwellings would not be built out quickly to help with the housing supply. They would also provide some modest economic benefit during the construction phase and result in a slight increase in spending in the local area.
24. Therefore, the adverse impacts would not significantly and demonstrably outweigh the benefits of the proposal. Consequently, in this instance, the Framework is a material consideration which directs a decision other than in accordance with the development plan and the appeal should be allowed.

Conditions and planning obligation

25. I have considered the 13 conditions put forward by the Council against the advice in the Framework and Planning Practice Guidance (the PPG) and have amended them in the interests of precision and clarity. Following the advice in the PPG I have also listed the conditions in the order that they need to be satisfied. The appellant has no objection to the Council's suggested conditions, including pre-commencement ones.
26. In addition to the standard condition which limits the lifespan of the planning permission I have imposed a condition specifying the relevant drawings as this provides certainty. In the interest of highway safety, amenity and promoting sustainable development I have imposed conditions relating to tree protection, provision of visibility splays, and vehicle and cycle parking. As part of an overhaul of the Building Regulations, new homes with associated parking must now have an Electric Vehicle charge point. Therefore, a planning condition requiring their provision is unnecessary. In light of comments from North Worcestershire Water Management, the area is at risk of surface water flooding, so drainage details will be required.
27. In the interests of the character and appearance of the area it is necessary to impose a materials condition. However, I have amended the trigger to 'before above ground works take place' as this provides greater enforceability and ensures a greater integrity of design, rather than the potential piecemeal fashion of 'prior to their first installation' of the materials.
28. The Highway Authority states that if planning permission is granted, they will require a planning obligation to secure monies for public transport. No sum has been specified and no details have been submitted to explain what the monies would be spent on. As a result, I am unable to determine if the obligation would be directly related to the development or fairly and reasonably related in scale and kind, as I am required to do under Framework paragraph 57. The Council has not advanced this matter. Therefore, I am not satisfied that a planning obligation is necessary to make the development acceptable in planning terms.

Conclusion

29. For the reasons given above I conclude that the appeal should be allowed.

K Stephens INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development to which this permission relates must be begun not later than the expiration of 3 years beginning with the date of the grant of this permission.
- 2) The development hereby approved shall be carried out in accordance with the following plans and drawings: Location Plan and Site Plan Drawing No. 5855/01; Proposed Floor Plans and Elevation Drawing No. 5855/02 and General Arrangement 210623-01.
- 3) Prior to the commencement of any works on site (including any site clearance, demolition, excavations or import of machinery or materials) the trees or hedgerows which are shown retained on the approved plans both on and adjacent to the application site shall be protected with fencing around their Root Protection Areas. This fencing shall be constructed as detailed in Figure 2 and positioned in accordance with Section 4.6 of British Standard BS5837:2012 and shall be maintained as erected until all development has been completed.
- 4) Prior to the commencement of any works on site (including any site clearance, demolition, excavations or import of machinery or materials) a plan showing the intended routing of all utility services on site shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 5) No works or development shall take place until details of the visibility splays have been submitted to and approved in writing with the Local Planning Authority. The approved splays shall be provided before the development commence. The approved visibility splays shall be maintained at all times free of obstruction exceeding a height of 0.6 metres above the adjacent carriageway.
- 6) No works or development shall take place until a scheme for surface water drainage has been submitted to and approved in writing by the Local Planning Authority. This scheme shall be indicated on a drainage plan. If possible, infiltration techniques are to be used and the plan shall include the details and results of field percolation tests. If infiltration drainage is not possible on this site, an alternative method of surface water disposal should be submitted for approval. There shall be no increase in runoff from the site compared to the pre-development situation up to the 1 in 100-year event plus an allowance for climate change. The drainage scheme shall be implemented prior to the first use of the development and thereafter maintained.
- 7) Any section of the parking, driveway and access that falls within the BS5837:2012 recommended Root Protection of the trees to be retained, or trees with any adjoining property are installed over the existing ground levels, shall be by use of a suitable grade of No Dig construction. Prior to the commencement of that work a plan showing the area of use for No Dig construction and a specification and methodology for the installation shall be first submitted to and approved in writing with the Local Planning Authority. The development shall be carried out in accordance with the approved details.

- 8) Prior to the commencement of above ground works, details of the form, colour and finish of the materials to be used externally on the walls and roofs shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with the approved details.
- 9) Prior to the first occupation of the development hereby permitted, a scheme of landscaping and planting shall be submitted to and approved by the Local Planning Authority in writing. The scheme shall include the following:
 - a) Full details of all proposed fencing, screen walls, hedges, earth moulding, tree and shrub planting where appropriate.
 - b) Details of ecological enhancements such as bat boxes and additional planting.

The approved landscaping and planting scheme shall be implemented within 12 months from the date when any of the building(s) hereby permitted are first occupied. Any trees/shrubs/hedges that are removed, die or become severely damaged, defective or seriously diseased within 5 years of the date of the original planting shall be replaced in the next planting season by plants of similar size and species to those originally planted.

- 10) Prior to the first occupation of the development hereby permitted, the first 5 metres of the access into the site measured from the edge of the carriageway, shall be surfaced in a bound material.
- 11) Prior to the first occupation of the development hereby permitted, sheltered, safe, secure and accessible cycle parking to comply with the Council's adopted highway design guide shall be provided. Thereafter the approved cycle parking shall be kept available for the parking of bicycles only.
- 12) Prior to the first occupation of the development hereby permitted the access, parking and turning facilities shown on drawing 5855/01, shall be provided.

End of conditions