



Appeal Decision

Site visit made on 21 February 2023

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 May 2023

Appeal Ref: APP/J1860/W/22/3294214

**Land adjacent to The Grove, Suckley Road, Bransford, Worcestershire
WR6 5LE**

- 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 Lewis, Morgan, Lewis and Smith against the decision of Malvern Hills District Council.
 - The application Ref 21/01256/FUL, dated 29 June 2021, was refused by notice dated 3 December 2021.
 - The development proposed is two self-build dwellings.
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Decision

1. The appeal is allowed and planning permission is granted for two self-build dwellings at land adjacent to The Grove, Suckley Road, Bransford, Worcestershire WR6 5LE in accordance with the application, Ref 21/01256/FUL, dated 29 June 2021, subject to the conditions set out in the schedule to this decision.

Preliminary Matters

2. The appellant has submitted a signed Unilateral Undertaking (UU) securing the proposal as self-build units and providing a contribution towards affordable housing in the district. I have addressed this in my reasoning below.
3. The Parishes of Leigh and Bransford Neighbourhood Plan (NP) has also been 'made' since the appeal was submitted. The appellant and the Council have been given the opportunity to comment on the neighbourhood plan. I must make a decision based on the development plan at the time of my decision. I am satisfied that no interested party has been prejudiced by my approach.

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

Reasons

Location of site

5. The South Worcestershire Development Plan (2016) (SWDP) identifies Bransford as a category 3 village, suitable for growth, but does not define a settlement boundary.
6. Policy SWDP 2 outlines the development strategy for new development in the area. Part C sets out that permission for development in the countryside, outside the development boundary of settlements 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.
7. The NP defines the Development Boundary for Bransford with Policy LB/H/2 setting out that development in open countryside, outside defined settlement boundaries, will only be granted if specific policies allow it in such locations.
8. The site lies adjacent to and opposite existing residential development but nonetheless it is located beyond the development boundary of Bransford. 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.
9. Services and facilities to meet residents' day-to-day needs are located a short distance to the west and are accessible from the site by foot and car. However, as the development would not be located within a settlement boundary it would not be an appropriate location for new housing. As such, it would be contrary to SWDP Policy 2 and NP Policy LB/H/2.

Character and appearance

10. The appeal site comprises a parcel of land located on the northern side of Suckley Road. It sits adjacent to and opposite existing residential development. Thus, on the ground the site has a physical and visual relationship to the built form.
11. The built form of the village largely extends in a loose linear manner along the road. The eastern part of the road has a greater depth as development follows the V shaped alignment of Suckley Road and Brockamin Lane. Leigh Hurst and Orchard Way are at variance to this and comprise more dense residential development.
12. The arrangement of properties, varying degrees of setback from the road and the spacing between houses results in a spacious environment providing an appreciation of the open countryside beyond. Public Rights of Way extend across the countryside to the north which provide views of the site and built form, albeit filtered by intervening vegetation.
13. The proposed development would respect the character and form of this part of Bransford by following the existing linear pattern of development. Whilst there would be a degree of urbanisation the layout, margin of garden land and green space around the dwellings and generous spacing between them would ensure that it reflects the spacious character of the area.
14. Whilst there would be some encroachment into the countryside, this would be modest. The site is heavily influenced by the surrounding built form and would

be viewed against a backdrop of existing houses from the Public Right of Ways. The development, in my judgement, would be read as a cohesive part of the settlement.

15. There is no doubt that the rear aspect of the proposed development would be visible from the north. However, this is the case for existing houses in this part of the village. Whilst it would result in visual change, this does not mean that what is before me unduly harms the character and appearance of the area.
16. The domestic paraphernalia associated with two dwellings would most likely be limited and would be viewed in the context of other dwellings, which already contain domestic structures and items in their gardens. Thus, its introduction would not, in my view, appear incongruous or visually intrusive.
17. Whilst SWDP Policy 13 encourages the effective use of land it also recognises that a balance needs to be struck between building at density and respecting the prevailing character of the local area. Bransford displays varying densities with looser development along the northern side of the road in contrast to the higher density development on Orchard Way to the south. In my judgement the proposal would be commensurate with the prevailing local character in respect of density.
18. I conclude that the proposed development would not harm the character and appearance of the area in accordance with SWDP Policies 13, 21 and 25 which, amongst other things, require high quality design that integrates successfully with its surroundings, landscape character and density to enhance the character and quality of the local area.

Affordable housing contribution

19. In order to support the appropriate provision of affordable housing in the district criterion B. v. of SWDP Policy 15 states that a financial contribution towards local affordable housing should be made on sites of 5 dwellings or fewer. 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.
20. The site is located within a designated rural area - consequently the appellant has provided a signed and dated UU as the mechanism by which to deliver a contribution towards affordable housing in the district in accordance with Policy SWDP15.
21. 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). I find that the submitted UU overcomes the Council's concerns in relation to this matter.
22. As such, the proposed development would accord with SWDP Policy 15 and paragraph 64 of the Framework which, amongst other things, seek to secure appropriate affordable housing.

Planning Balance

23. 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.

24. Notwithstanding the debate regarding the Council's housing supply position there are no relevant development plan policies relating to self-build and custom-building housing. In such instances paragraph 11d of the Framework states that where there are no relevant development plan policies 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.
25. For housing paragraph 14 of the Framework states that in situations where paragraph 11d applies, the adverse impacts of allowing development that conflicts with a neighbourhood plan is likely to significantly and demonstrably outweigh the benefits provided four criteria are met.
26. In this particular case all four criteria are met. This of course does not mean that in such instances the brakes on housing development are automatically applied, but rather that paragraph 14 is an important material consideration and the weight it receives needs to be properly considered in the overall balance.
27. The proposed development conflicts with Policy SWDP 2 and NP Policy LB/H/2 for the reasons set out above. However, 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, providing them with transport choice and not an over-reliance on a car. There would be some positive contribution to the vitality of Bransford as a rural community, thus in this regard it would accord with Paragraph 79 of the Framework. I therefore attach moderate weight to the conflict with the development plan.
28. The proposed development would be well related to the existing built form, sitting within a largely continuous built-up frontage along Suckley Road. It would be well contained and read as part of the village rather than the surrounding countryside. I find that the proposed development would protect the surrounding landscape in accordance with Paragraph 174 a) of the Framework.
29. The construction of two self-build dwellings, secured by the UU, would contribute towards the district's housing supply meeting a local housing need. It would also provide a financial contribution towards affordable housing in the area. As such, I attach significant weight to these benefits.
30. Overall, I find that the adverse impacts of the proposal would not significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework when taken as a whole.
31. 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

32. 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.

33. 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.
34. Conditions for details of the external materials, landscaping, boundary treatment and external lighting have been imposed to ensure satisfactory appearance of the development.
35. Conditions requiring submission of details of the surface and foul water drainage system, for at least 10% of the energy supply of the development to be from renewable or low carbon energy sources, electric vehicle charging points and superfast broadband have been imposed in the interests of achieving sustainable development.
36. Conditions relating to the visibility splay, access, parking and turning areas are relevant in the interests of highway safety.
37. In order to protect retained trees on site a condition for an arboricultural method statement and tree protection measures during the construction works has been imposed.
38. A condition for the development to be carried out in accordance with the submitted Ecological Appraisal has been imposed in the interests of biodiversity.
39. The Council has suggested conditions for a construction environmental management plan and limiting the construction working hours. However, taking into account the small scale of the development it is unlikely to result in significant levels of construction traffic or disruption. As such, I find the conditions are not necessary.

Conclusion

40. 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: Floor Plans Plot 1 Drawing Number S046.1b; Elevations Plot 1 Drawing Number S046.2a; Location Plan Plot 1 Drawing Number S046.3b; Location Plan Plot 1 and 2 Drawing Number S046.4b; Location Plan Incorporating Topo Levels Plot 2 Drawing Number S046.5b Garage Plot 1 Drawing Number S046.6a; Floor Plan Plot 2 Drawing Number S047.1b; Elevations Plot 2 Drawing Number S047.2a; Location Plan Plot 2 Drawing Number S047.3b; Location Plan Incorporating Topo Levels Plot 2 Drawing Number S047.5b; Garage Plot 2 Drawing Number S047.6a; Existing Plot 1 and 2 Drawing Number S047.7 and Visibility Splays Drawing.
- 3) No site clearance, preparatory work or development shall take place until a scheme for the protection of the retained trees (the tree protection plan) and the appropriate working methods (the arboricultural method statement) in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) shall have been submitted to and approved in writing by the local planning authority. The scheme for the protection of the retained trees shall be carried out as approved.
- 4) No development, above ground, shall commence until details of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 5) No development shall commence, above ground, until details of the boundary treatment have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 6) No development shall commence, above ground, until details of renewable and/or low carbon energy generation measures have been 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. Development shall be carried out in accordance with the approved details.
- 7) The development shall not be occupied until foul and surface water drainage works have been carried out in accordance with details which shall have first been submitted to and approved in writing by the local planning authority.
- 8) The development shall not be occupied until a scheme of landscaping shall have been submitted to and approved in writing by the local planning authority. 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.

- 9) The development shall not be occupied until details of superfast broadband or alternative solutions to serve the dwellings have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 10) The development shall not be occupied until the proposed development has been fitted with electric vehicle charging points. The electric vehicle charging points shall be retained for the lifetime of the development.
- 11) The development shall not be occupied until space has been laid out within the site in accordance with Location Plan Plot 1 and 2 Drawing Number S046.4b for cars to be parked and for vehicles to turn so that they may enter and leave the site in forward gear and that space shall thereafter be kept available at all times for those purposes.
- 12) No external lighting shall be installed and brought into use until details of its nature and luminance have first been submitted to and approved in writing, and any external lighting shall then be installed and used in accordance with the approved details only.
- 13) The visibility splay shown on the Visibility Splays Drawing shall be maintained free of obstruction exceeding 0.6m in height for the lifetime of the development.
- 14) The development shall be carried out in accordance with the conclusions and recommendations set out in the submitted Preliminary Ecological Appraisal.