



Appeal Decision

Site visit made on 18 July 2023

by K Stephens BSc (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 July 2023

Appeal Ref: APP/H1840/W/23/3316580

Land off Hatfield Lane, Hatfield, Norton, Worcester WR5 2PZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Mr Karl Lockley of Lockley Homes against Wychavon District Council.
 - The application Ref W/22/02008/OUT, is dated 9 September 2022.
 - The development proposed was originally described as "Outline planning application for residential development of up to 3 self/custom-build dwelling houses, access and associated works."
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Decision

1. The appeal is dismissed and planning permission for Outline planning application for residential development of up to 3 self/custom-build dwelling houses, access and associated works is refused.

Preliminary Matters

2. The proposal was submitted in outline with all matters reserved for subsequent approval, except for the principal means of access off Hatfield Lane. The submitted plans are therefore illustrative only, even if they have not been explicitly labelled as such.
3. The address is taken from the application form. However, the postcode does not include the site. I have therefore used the postcode from the appeal form as it does include the appeal site.
4. The description of the development is taken from the application form. However, on the form the proposed dwellings are 'ticked' as being for market housing - not Self-build and Custom Build housing (SBCH). However, the submitted S106 includes Schedule 2 dedicated to the provision of SBCH. It is therefore clear from this and the Council's appeal statement, that the proposal was determined as SBCH. I shall therefore also deal with the proposal on this basis.

Main Issues

5. The appeal results from the Council's failure to reach a decision on the application submitted by the appellant within the prescribed period. There is no formal decision from the Council, as jurisdiction over that was taken away when the appeal was lodged. However, in his Final Comments, the appellant has attempted to list what they consider to be the Council's reason for refusal would be. I also note the assessment and conclusions submitted in the

Council's appeal statement and in particular its paragraphs 6.4 and 6.4 which I consider set out the Council's main concerns.

6. The Council also referred to there being no financial contribution towards off-site affordable housing provision. However, during the appeal a duly dated and executed planning obligation¹ (the 'S106') has been submitted to secure financial contributions towards the provision of off-site affordable housing. This therefore addresses the matter.
7. I have used the above to inform me of what I regard to be the main issues in this appeal, namely:
 - Whether the appeal site would be a suitable location for housing with regard to local and national policies, and
 - The effects of the development on the character and appearance of the countryside and surrounding area.

Reasons

Whether a suitable location for housing

8. Policy SWDP1 of the South Worcestershire Development Plan² is a broad-brush policy advocating the overarching sustainable development principles contained in the National Planning Policy Framework (the Framework). Policy SWDP4 expects proposals to demonstrate the development will minimise demand for travel and offers genuine sustainable travel choices.
9. As part of this approach Policy SWDP2 sets out the Council's development strategy and settlement hierarchy. Worcester will see the largest amount of development, followed by main towns and other urban areas. Some growth will be directed to certain rural settlements (Category 1, 2 and 3 villages) that have a reasonable range of local services, and to within development boundaries of 'Lower category villages'. There is no dispute between the parties that the appeal site does not lie within any of the 'Category 1, 2, or 3 villages'.
10. In 'Lower category villages', which tend to be small with few services, infill development is acceptable in principle within defined development boundaries, which is endorsed by Policy NJK10 of the Norton-juxta-Kempsey Neighbourhood Plan³ (the Neighbourhood Plan). Sites beyond development boundaries are considered countryside for policy purposes. The parties do not dispute the site lies outside Hatfield's development boundary and hence is in the countryside.
11. In the countryside sites are generally less sustainable because access to local services and employment opportunities tend to be poorer. Hence Policy SWDP2 restricts development in the countryside to rural employment, rural exception sites, replacement dwellings, rural workers' dwellings and renewable energy projects. The appeal proposal does not fall into any of these exceptions.
12. These policies are broadly consistent with the Framework, which states that to promote sustainable development in the rural areas housing should be located where it will enhance or maintain the vitality of rural communities; seek

¹ Pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended)

² Adopted February 2016

³ Made 1 December 2021

opportunities to promote walking, cycling and public transport; limit the need to travel, and offer a genuine choice of transport modes. The Framework acknowledges that opportunities to maximise sustainable transport solutions will vary between urban and rural areas and should be taken into account in decision-making.

13. Whilst the appellant does not dispute that the proposal would be contrary to Policies SWDP2 and NJK10, they consider that there are material considerations that outweigh these conflicts.
14. Hatfield does not have any services or facilities. However, I am advised that there are hourly bus services to Worcester, Pershore and Evesham six days a week from Worcester Parkway railway station, which is about 2kms away. The nearby village of Littleworth has at least one key services and access to a daily bus. Brockhill⁴ has a garden centre and a daily bus service into Worcester and surrounding areas. However, distance and proximity to services and facilities is not the only factor to consider. The nature and type of route to them will have an effect on their suitability and likelihood of them being used.
15. I saw that the approach roads from the site to Worcester Parkway railway station had no pavements or streetlighting and were narrow in places. This would not be conducive to encourage future occupants to walk to and from the station to catch a train or bus to access day-to-day services and facilities, particularly in the dark or inclement weather, hence giving them no choice to go on foot. It is generally accepted that people are prepared to cycle longer distances for employment and therefore cycling to the railway station could be an option for some people, who could leave their bikes at the station and travel onwards by train.
16. The shortest way to Littleworth is via a bridleway that passes in front of the appeal site and apparently there are public footpaths to Brookhill that avoid the roads. However, it is unlikely that future occupants would walk these off-road routes to access day-to-day services and carry bags of shopping. However, they would potentially offer leisure and recreation opportunities with their associated health and well-being benefits.
17. Whilst the design and size of the proposed dwellings would be determined at reserved matters stage, the appellant indicates they would likely be a mix of 4/5 bedroom properties. Such sized dwellings would likely be attractive to families with children who would need to go to school. Hence there would still be a need for future occupants to access day-to-day services and facilities, such as schools, doctors, dentists, shops, leisure and sports, even if some of these trips were linked. However, the location of the appeal site in a location with a paucity of facilities and lack of access to public transport would mean future occupants would have few transport choices and hence would likely be heavily reliant on the use of private vehicles, even if journeys were short.
18. My attention is drawn to a number of future large-scale developments in the area. The appeal site would be close to the boundary of the proposed Worcester South urban extension, a mixed-use land allocation for employment and some 2,600 dwellings. In addition, as part of an emerging local plan review land around Worcester Parkway is provisionally allocated for some 5,000 dwellings, with a school, offices, employment, retail and leisure facilities.

⁴ The appellant erroneously refers to this as Brockworth Village.

19. Whilst these large-scale developments would no doubt provide enhanced services and facilities closer to the appeal site, they do not currently exist. Developments of this scale would likely be built-out in phases and take a number of years to complete and for all the services/facilities to be provided. Consequently, future occupiers of the appeal proposal would not benefit from additional services and facilities for some time.
20. The appellant regards the provision of SBCH as being a significant determining factor. The Framework identifies 'people wishing to commission or build their own homes' as a distinct section of the community, for which the size, type and tenure of housing needed should be assessed and reflected in planning policies.
21. Under the Self-Build and Custom Housebuilding Act 2015 (as amended by the Housing and Planning Act 2016), and associated secondary legislation, local planning authorities are under a duty to grant a sufficient number of suitable permissions to meet the demand for SBCH within their area. This demand is to be measured by the number of new applicants entered on the local Self-Build Register (the Register) in each base period; and that number must be matched by new suitable permissions granted within 3 years of the end of each relevant base period. Under the Act, authorities must have regard to the Register when carrying out their planning functions, including making decisions on planning applications.
22. The Council's evidence, including from an appeal decision for 1 dwelling in Bishampton supplied by the appellant, sets out its current position on SBCH. As of October 2022, there were 222 entries on the Register, of which 110 were on both Part 1 (have a local connection to the district) and Part 2 (no local connection). The Council's evidence shows that the Council should have granted planning permission for 45 SBCH plots by October 2022 - it granted 50 such plots and hence exceeded the need. An additional 10 entries were added to Part 1 of the Register in the 5th base period (31 October 2019 to 30 October 2022), such that the Council has until 30 October 2023 to meet the total need of 55 dwellings. The Council has approved 20 SBCH dwellings since 31 October 2022. Therefore, the Council's total SBCH supply is 70 dwellings with planning permission, which meets the need for SBCH in the 5th base period ahead of the 30 October 2023 deadline. Therefore, there is no shortfall of SBCH. The appellant, using slightly different figures that still show the need is met, does not dispute that the Council has exceeded the need for SBCH plots for the current period.
23. Drawing together all the above points, the erection of 3 dwellings in the countryside outside a defined settlement boundary, whether or not for self-build, would be contrary to the Council's strategic spatial housing policies and undermine the Council's spatial and settlement strategy for the location of housing and promoting sustainable patterns of development and would result in reliance on the car. Hence the appeal site would not be a suitable location for housing with regard to local and national policies. Accordingly, the proposed development would be contrary to Policies SWDP1, SWDP2 and SWDP4 and Neighbourhood Plan Policy NJK10, whose aims are outlined above.

Countryside character and appearance

24. The appeal site is currently part of a wider arable field. It is located along a bridleway track off Hatfield Lane that is rural in character as it leads to open fields beyond. With a few sporadic dwellings set back from the track and fields

in between and extending into a wider rural landscape, the appeal site positively contributes to an open spacious rural feel and to the sense that the village has come to an end.

25. The proposal would see 3 dwellings built along the site frontage in decent sized plots. The indicative plans and 3-D visuals suggest 3 large detached pitched-roof dwellings set back from the road each occupying almost the entire width of each plot. Three detached double-garage buildings are also shown between the dwellings and the track, each with multi-pitch roofs. The dwellings and garages would be accessed off a single vehicular point off the track, leading to a shared driveway.
26. The exact layout and position of the dwellings on the site, as well as their size, scale and appearance would be determined at reserved matters stage if outline planning permission is granted. Nonetheless, the plans provide a useful guide as to how the site could be developed.
27. The existing hedge along the track is indicatively shown to be retained, which could be conditioned, and could grow up to provide screening and reduce the residential built form that would be created along the track.
28. However, the alignment of three dwellings in a row close together with detached garages would create a sizeable collection of buildings in a field in a part of the village where development is petering out. The proposal, with the resulting inevitable domestication of the plots, would occupy part of the field and result in built development encroaching into the countryside.
29. Furthermore, from the public right of way to the south, the land rises up such that the appeal site is elevated. The two-storey dwellings would therefore be unduly prominent on the skyline, particularly as there is no existing landscaped boundary to the southern site boundary as it is part of a wider field. Even if the boundary was planted up, it would take time to grow and mature before it was able to provide any effective screening. This suburban form of development on an arable field currently devoid of development would see the loss of the openness of this part of the village and harm its character and appearance, and therefore would not safeguard the open countryside.
30. Accordingly, the proposal would be contrary to Policies SWDP2, SWDP21 and SWDP25 and Neighbourhood Plan Policy NJK1. Collectively these seek, amongst other things, to ensure development respects the surrounding area and local landscape and safeguards the open countryside, and where possible enhances it.

Other Matters

31. I am aware that some concerns have been expressed about highway safety. The proposal would see an increase in the use of the junction with Hatfield Lane, but the Highways Authority confirms the access is technically acceptable. The proposal would also increase vehicle movements along Hatfield Lane, which I saw was narrow in places. However, Hatfield has a development boundary within which development plan policies allow some infill development regardless of the state of Hatfield Lane. Hatfield Lane has no pavements or streetlighting, but there is a 30mph speed limit through the village. The appellant's submitted Technical Note⁵ calculates the proposed 3 dwellings

⁵ Prepared by Rappor dated August 2022

would generate approximately 2 additional trips per hour over a 12-hour period. The report concludes the increase in traffic arising from the proposal would not cause a detrimental or unacceptable impact on highway safety on the local highway network or to pedestrians, cyclists and horse riders. In the absence of evidence to the contrary I have no reason to take a different view.

32. I acknowledge the appellant's concerns with the Council's handling of the application and not reaching a decision within the prescribed timeframe, but in reaching my decision I have been concerned only with the planning merits of the case.

Planning Obligation

33. The signed and dated S106 has been submitted. £38,391 would be provided as a contribution towards the provision of affordable housing in accordance with Policy SWDP15 for proposals of less than 5 dwellings. For housing to be appropriately delivered as SBCH, the Council must be satisfied that the initial owners of the SBCH will have primary input into its final design and layout otherwise it will not meet the legal definition of SBCH. Schedule 2 of the S106 would secure the SBCH tenure. However, as I am dismissing the appeal for other reasons, I do not need to consider the obligations further.

Planning Balance and Conclusion

34. The Council cannot currently demonstrate a 5-year supply of deliverable housing sites. Furthermore, the SWDP is more than 5 years old and is absent on the provision of SBCH, as is the Neighbourhood Plan. Consequently, paragraph 11d) of the Framework (or the 'tilted balance') is triggered. This means that the policies which are most important for determining the application are to be considered out-of-date and 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.
35. The proposal would help reduce the Council's housing deficit and this is a significant factor that weighs in favour of the proposal. However, given the scale of the development for 3 dwellings such a contribution would be modest and thus limited in the grand scheme. There would also be some associated modest economic and social benefits arising from the construction of the dwellings and their longer-term contribution to the local area. I have no reason to doubt the proposed dwellings would be built to a high quality design and incorporate energy efficient measures that would help reduce carbon emissions. The proposal would also add to the supply of SBCH. However, as the Council has currently exceeded its supply of these dwellings there is no pressing need for more at the present time. This reduces the weight afforded to SBCH. The New Homes Bonus and additional Council Tax revenue cannot be regarded as a benefit as they are mechanisms for off-setting the impacts of new development on an area. The financial contribution towards the off-site affordable housing provision is not a benefit, as it also seeks to mitigate the impact of the development.
36. Whilst the Framework sets out a presumption in favour of sustainable development and even where the paragraph 11 is engaged, the benefits of additional housing do not necessarily outweigh all other concerns. Case law has found that even where policies can be considered out of date, this does not

mean that they carry no weight - the balancing exercise remains a matter of planning judgement.

37. Furthermore, whilst the weight to be given to Policies SWDP2 and NJK10 in particular is reduced as a result of paragraph 11d) it is not reduced to the extent that it plays no part. Indeed, the development plan still has primacy and still seeks to ensure the spread of development across the district is done so to ensure adherence to the Framework's principles of sustainable patterns of development and that development is directed to those areas that have the benefit of accessible services.
38. The proposal, whether for SBCH or not, would mean future occupants would have poor access to public transport and day-to-day services and facilities, with limited or no choice about transport modes and would therefore leave them heavily reliant on the private car. Those without access to a car and unable to walk or cycle would have no access. The proposal would undermine the Council's housing strategy and conflict with the environmental and social sustainability aims of the Framework. I have also found there would be harm to the surrounding area and open countryside. These are serious planning objections to which I give significant weight.
39. Taking the above factors into account, I am not persuaded that the adverse impacts of the proposed development would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
40. For the reasons above I conclude that the appeal proposal would not accord with the development plan and the material considerations I outline above are not sufficient to outweigh this conflict. Accordingly, the appeal should be dismissed.

K Stephens
INSPECTOR