



Appeal Decision

Hearing held on 14 August 2024

Site visits made on 13 and 14 August 2024

by Alison Partington BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th of September 2024

Appeal Ref: APP/C3430/W/24/3343689

Land at School Road, Himley DY3 4LG

- 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 Taylor Reed Homes Ltd against South Staffordshire Council.
 - The application is Ref 24/00124/FULM.
 - The development proposed is the erection of 10 affordable dwellings with associated works and access.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application had three reasons for refusal. The second reason for refusal related to the absence of a completed Section 106 agreement to secure various matters and contributions. A signed S106 agreement was submitted as part of the hearing documentation, and this was discussed at the hearing. As agreed during this discussion a revised agreement was submitted after the close of the hearing. In the light of the submission of an agreement, the Council confirmed they are no longer pursuing this reason for refusal. I will return to the agreement later in my decision.
3. The third reason for refusal related to drainage and flooding matters. Prior to the hearing taking place, revised plans were submitted by the appellant and in the light of these the Council confirmed, that subject to a condition, the matter had been satisfactorily addressed. Consequently, they were no longer pursuing this reason for refusal either.

Background and Main Issue

4. The southern part of the site, where no dwellings are proposed lies in the Green Belt. At the hearing the Council confirmed that they considered the proposal would not be inappropriate development as the material change of use of the land in the Green Belt would preserve the openness of the Green Belt and not conflict with the purposes of including land within it. Therefore, it would accord with Policy GB1 f) of the *Core Strategy Development Plan Document (adopted December 2012)* (CS) and paragraph 155 e) of the *National Planning Policy Framework* (the Framework). This is a conclusion with which I agree.
5. As a result, the main issue in the appeal is whether or not the site is a suitable location for new housing having regard to policies for new development.

Reasons

6. The appeal site is a vacant and overgrown grass paddock. The northern part of the site lies within the development boundary of Himley as defined by the CS. Core Policy 1 of the CS sets out the spatial strategy for the district which seeks to ensure that growth in the district is located in the most accessible and sustainable locations. Himley comes under "Other Villages and Hamlets" in this hierarchy. In this tier development is limited to rural affordable housing schemes provided through rural exception sites and the conversion and re-use of redundant rural buildings.
7. The appeal scheme is put forward as a rural exception site with all of the dwellings being affordable (a mixture of social rent and shared ownership) and for occupancy by local people. The S106 agreement submitted would ensure this. Policy H2 of the CS indicates support for schemes for the provision of 100% affordable housing on rural exception sites in "service villages" and "other villages and hamlets" where a need has been demonstrated in accordance with Policy H3. This policy sets out 5 criteria for rural exception sites which I consider in turn below.

Criterion (a)

8. The first criterion is that the site must lie adjacent to the existing village development boundary. The appeal site lies partly within and partly immediately adjacent to the development boundary for Himley, with the dwellings all being within the boundary. If rural exceptions sites are acceptable when adjacent to the boundary, it would be perverse to say they were not if the site was located within the boundary. At the hearing the Council confirmed that despite the site being partly inside the boundary they had no objection to the proposal in this regard. As such, the proposal would meet this criterion.

Criterion (b)

9. The second criterion requires that housing need has been identified in the parish, or in one or more of the adjacent parishes, for the type and scale of development proposed. The explanatory text to the policy indicates that the local need for affordable housing should be identified through the preparation of a robust Parish Needs Survey but does not say who needs to carry out any such survey. The *Affordable Housing and Housing Mix Supplementary Planning Document (adopted April 2014)* (SPD) indicates that this need would usually be demonstrated by a Parish Needs Survey being conducted in partnership with the relevant Parish Council (my emphasis).
10. In this case the Parish Council has not undertaken a Parish Needs Survey. However, the appellant undertook a Housing Needs Assessment of the Parish which was submitted as part of the application. The appellant indicated they sought to do this in conjunction with the Parish Council but state that although the Parish Council had no objection to the survey taking place, they indicated that they did not wish to be involved with it. Moreover, the Registered Provider approached indicated they would not be involved without the involvement of the Parish Council.
11. Whilst I appreciate that it might be usual and preferable for this process to be led by the Parish Council, there is nothing in the policy, the explanatory text or the SPD that indicates that this is an essential requirement. In this case, where neither the Parish Council nor the Registered Provider is prepared to engage with such a survey, the appellant could only undertake it by themselves. I see no reason why

the results of this survey are less likely to be reflective of the need in the area because the survey was led by the developer rather than the Parish Council.

12. The questionnaire was sent to households across the parish which includes Gospel End as well as Himley. The response rate for the survey was 6%. Whilst it was suggested that this was a good response rate, I note that in another appeal¹ referred to by the appellant for a rural exception site elsewhere in the district, the response rate was 17%. This is significantly higher than in the current case. Notwithstanding the appellant's suggestion that any response rate over 5% is good, I have some concerns over the statistical validity of the results with such a limited number of responses.
13. Putting these concerns to one side, the appellant has suggested that the results indicate a need for at least 10 affordable dwellings of a range of type and tenure which the proposal would be able to meet. However, I am not persuaded that this is in fact the case.
14. Whilst 5 respondents indicated that they are likely to need alternative or additional housing over the next 1-5 years which they are unable to attain, only 1 of these actually specifically indicated that this was because they could not afford to rent or buy their own home, with others saying their need related to wanting their own home or because their home was too small or unsuitable for their physical needs. This need could therefore reflect the general limited availability of properties in the area for sale or for rent, as shown by data provided by the appellant, rather than affordability issues.
15. Similarly, even though the introduction to the questionnaire identifies that its purpose is to establish the need for housing, and specifically affordable housing, in the area, some of the responses made in relation to questions about close relatives or employees who have a need to live in the parish, and to whether family members had moved away in the last 10 years could also reflect the general limited availability of dwellings in the parish rather than the affordability of property.
16. The information provided on the number of properties for sale and rent in the parish represents a snapshot in time and will clearly change on a regular basis. However, I observed that Himley contained a wide mix of housing types and sizes that would be capable of meeting a range of housing needs, even if the turnover of stock is limited.
17. All in all, even if the response rate is such that the results are statistically valid, I am not satisfied that the Housing Needs Assessment robustly demonstrates the need for the provision of 10 affordable dwellings in Himley.
18. The appellant has also referred to national and district level data that shows the need for affordable housing, with much of the latter being part of the evidence base for the emerging Local Plan for the district. It is not disputed that this shows the district, including "Locality 5" of which the Parish forms a part, has a significant need for affordable housing over the proposed plan period. However, the Council has indicated that this need is to be addressed through the allocations within the emerging plan, which include a number in various higher tier settlements in the locality. Whilst I accept that the emerging Local Plan has not yet been submitted for examination, I nevertheless agree that this is the most appropriate method to address the need identified for the plan period. Moreover, such evidence is at a

¹ Appeal reference APP/C3430/W/19/3237890

district wide level and does not show an identified local need as required by the criterion.

19. Overall, I am not satisfied that a need for affordable housing has been clearly identified within the parish as required by this criterion.

Criterion (c)

20. Himley has a limited range of services and facilities that include a farm shop, and 2 hotels and a public house. Whilst there is also a cricket club, golf centre and sailing club, such facilities would have a negligible role in serving the day to day needs of existing or future occupiers. However, the village is also served by a regular bus service that operates 7 days a week, and school buses in term time.
21. The much larger village of Wombourne has a good range of services and facilities, which would be capable of meeting the majority of day-to-day needs of future residents. This village is accessible via the bus service, as well as by foot, along a road that has a footway its entire length and lighting for much of it. Whilst most of the services and facilities in Wombourne are at a distance most people are more likely to drive than walk, there is some choice for future occupiers to use alternative modes of transport.
22. Rural exception sites are by their very nature, found in places that would not normally be considered suitable as a location for housing, and where greater reliance on a car is likely to be necessary. However, in being relatively close to this main service village, future occupiers would only have to travel a short distance to be able to meet the majority of their day-to-day needs.
23. Thus, I consider that the size and scale of the proposed development and its relationship to existing services and facilities would be acceptable, and the proposal would meet this criterion.

Criterion (d)

24. A S106 agreement was submitted as part of the proposal. In accordance with this criterion, this would ensure the long-term affordability of the scheme for local people. It is disputed between the parties whether the definition for shared ownership lease should ensure the equity is limited to 80% to ensure it is not lost to the open market. However, the definition indicates that where 100% staircasing is permitted, provision would have to be made in the shared ownership lease for the registered provider to be able to re-purchase the property on any re-sale. As such, the property would not necessarily be lost to the open market.

Criterion (e)

25. There is little consistency in the design or appearance of dwellings in Himley. Properties vary in age and type – with houses, bungalows and apartments being evident. The proposal would comprise a mix of bungalows, houses and maisonettes, whose design, scale, and materials would complement the character and appearance of the area and would sit comfortably with the properties immediately around the site. As such, I consider that the proposal would meet this criterion.

Conclusion on main issue

26. Whilst I consider that the proposal would accord with criteria a, c, d and e, I am not satisfied that the proposal would meet an identified local need. As such it would be contrary to criterion b and so would not accord with Policy H3 nor with Core Policy 1 of the CS. Thus, having regard to policies for new development, the site would not be a suitable location for new housing.
27. In support of the appeal my attention was drawn to the appeal referenced above where it was concluded the site did represent a rural exception site. However, in that case it was concluded that it had been demonstrated that there was an identified local need for affordable housing. This is not the case here and so the other appeal does not represent a direct parallel to this case.

Other Matters

28. The appeal site lies within the setting of the "Seven Dwellings" a Grade II Listed terrace of dwellings on the far side of Bridgnorth Road. Modern dwellings already lie between this terrace and the site and between the site and the Himley Park and Village Conservation Area. As such the proposal would not have any adverse impact on, and would preserve, the setting of both of these heritage assets.
29. Whilst the provision of 10 affordable dwellings would be a benefit of the scheme, given its location and the fact that it would not be meeting an identified local need, I only give this limited weight. In addition, there would be social and economic benefits both during the construction period and once the dwellings are occupied, and the proposal would create an area of open space that would benefit both existing and future occupiers. However, given the scale of the proposal, these benefits would be limited, and I do not consider these benefits outweigh the harm that would arise from a location contrary to the development plan.

Planning Obligation

30. A signed and completed S106 agreement was submitted as part of the appeal documentation. This secures the provision of the development as affordable housing as well as the type and occupancy of the units. It also secures the provision and management of the open space on the site and a Biodiversity Net Gain contribution to offset the deficit in habitat units.
31. The Council have provided a CIL Compliance Statement which sets out how the S106 agreement would meet the relevant tests contained in Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended) and in paragraph 57 of the Framework.
32. From the evidence before me I am satisfied that all of the obligations in the S106 agreement are necessary, directly related to the development and fairly related in scale and kind. As such, it accords with the statutory tests.

Conclusion

33. The proposal conflicts with the development plan and material considerations do not indicate that a decision should be made otherwise than in accordance

with the development plan. Therefore, for the reasons given above I conclude that the appeal should be dismissed.

Alison Partington

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Luke Cottrell	RCA Regeneration
Sian Griffiths	RCA Regeneration

FOR THE LOCAL PLANNING AUTHORITY:

Jennifer Mincher	Senior Planning Officer, Development Management, South Staffordshire Council
Laura Moon	Senior Planning Officer, Development Management, South Staffordshire Council
Ross Parker	Senior Strategic Planning Officer, Local Plans, South Staffordshire Council,
Matt Wall	Ecologist, Development Management, South Staffordshire Council

INTERESTED PARTIES:

Yvonne Nock	Chair, Himley Parish Council
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