



Appeal Decision

Site visit made on 14 May 2024

by G Sibley MPLAN MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 September 2024

Appeal Ref: APP/P1805/W/23/3332459

Land adjoining 39 Parish Hill, Bournheath, Bromsgrove B61 9JH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant permission in principle.
 - The appeal is made by Mr Matt Hiles of Chapel Hill Homes against the decision of Bromsgrove District Council.
 - The application Ref is 23/00977/PIP.
 - The development proposed is infill residential development of up to 2 dwellings.
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Decision

1. The appeal is allowed and permission in principle is granted for infill residential development of up to 2 dwellings at land adjoining 39 Parish Hill, Bournheath, Bromsgrove B61 9JH in accordance with the terms of the application, Ref 23/00977/PIP.

Preliminary Matters

2. The proposal is for permission in principle. The Planning Practice Guidance (PPG) advises that this is an alternative way of obtaining planning permission for housing-led development. The permission in principle consent route has 2 stages: the first stage (or 'permission in principle' stage) establishes whether a site is suitable in principle and the second ('technical details consent') stage is when the detailed development proposals are assessed. This appeal relates to the first of these 2 stages.
3. Under the terms of the Town and Country planning (permission in principle) Order 2017 (the Order) (as Amended) the scope of the considerations for permission in principle is limited to location, land use and the amount of development permitted. All other matters are considered as part of a subsequent technical details consent application if permission in principle is granted. I have determined the appeal accordingly.
4. Indicative plans have been submitted with the appeal. I have had regard to them but acknowledge that they are not definitive and the scheme at the technical details consent stage could change.
5. Consultation on the proposed reforms to the National Planning Policy Framework (the Framework) and other changes to the planning system as well as a Written Ministerial Statement were published on 30 July 2024. The main parties were given the opportunity to comment on these and they have been taken into consideration.

Main Issue

6. The main issue is whether the site is suitable for residential development having regard to its location, the proposed land use and the amount of development proposed, with particular reference to:
 - whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies.

Reasons

7. The proposal seeks permission in principle for up to two dwellings on a site that is within the Green Belt. The Framework establishes that the construction of new buildings in the Green Belt is inappropriate development subject to a number of exceptions. This includes paragraph 154e) of the Framework which allows for the limited infilling in villages. Policy BDP4 of the Bromsgrove District Plan (BDP) that was adopted 2017 is consistent with this but refers to Green Belt settlements rather than villages.
8. It is not disputed between the parties that the site lies outside of the settlement boundary for Bournheath defined in the BDP. However, it has been established in case law¹ that the physical circumstances of a site and its relationship to a settlement are relevant in considering whether a site should be deemed infill for the purposes of Green Belt policy in the Framework.
9. When approaching Bournheath from the west on Dordale Road you would pass the village name sign identifying that you were approaching Bournheath. There are fields either side of this sign and then a row of houses on one side of the road. This leads to Parish Hill and the dwellings continue along this road. The houses along this road do not follow a consistent pattern of development with variations in the distance the houses are set back from the road and the gaps between them. It is also not uncommon for houses to be separated by small fields.
10. Both Parish Hill and Dodford Road take access via Dordale Road and the junctions for each road are located close to each other. Dodford Road is located within the settlement boundary while Parish Hill is outside of it. Whilst the houses are separated by the junction for Parish Hill there are dwellings along Dordale Road that then continue onto Dodford Road.
11. Along Dodford Road the dwellings do become more densely developed compared to Parish Hill although the set back and gaps between them continue to be varied. This then continues along Fairfield Road, but the houses become more dispersed further away from the junction between Dodford Road and Fairfield Road. Open fields between houses are common along Dordale Road, Parish Hill, Dodford Road and Fairfield Road and they form part of the pattern of development in the area both inside and outside of the settlement boundary. Doctors Hill has a similar character to these roads, although the development is more dispersed.
12. Within the settlement boundary there are pavements, but these do not continue throughout the settlement, and they stop and begin at irregular intervals. As such, there are sections of the roads within the settlement

¹ Wood v Secretary of State for Communities and Local Government, Gravesham Borough Council [2015] EWHC Civ 195

boundary without a pavement. Consequently, the fact that there is no pavement along Parish Hill does not necessarily signify that it is outside of the settlement.

13. The scale of the houses in the area varies considerably and the differences in the design of the dwellings also contributes towards the varied character of the area where no one building style dominates. Given this varied building style and particularly the differences in plot sizes and the location of fields sporadically throughout the area, the development on the roads outside of the settlement boundary is consistent with development in it. Whilst the site is a field between houses this does not signify that it is outside of the settlement given the pattern of development where such fields between properties are common. Therefore, having had regard to the situation on the ground, I find that the appeal site forms part of the village of Bournheath even though it lies outside of the settlement boundary defined in the BDP.
14. There is no definition of 'limited' or 'infilling' in the Framework or the BDP. I have been provided with an appeal decision which included a definition of limited and infill². However, in that instance the development plan had criteria for infill development unlike the development plan before me. Furthermore, a Judgment³ was handed down that held that the Framework does not define 'limited infilling' and therefore it is a matter of fact and planning judgement whether a development constitutes limited infilling or not.
15. This is a matter that has to be assessed in the context of the site's location and the form of development proposed. Whether the proposal constitutes limited infilling is a question of fact and planning judgement having regard to the nature and size of the proposed development, the location of the site and its relationship to existing development nearby.
16. Bournheath is a modestly sized settlement and given that the proposal would be for up to two houses, I consider that this quantum of development would be limited with regard to the size of Bournheath.
17. The wider site extends a significant depth; however, the appeal site only incorporates a smaller section of the land close to Parish Hill. As a result, the depth of the appeal site would be comparable to the plots for other dwellings on Parish Hill. There are houses nearby with smaller frontages closer to the junction between Dodford Road and Fairfield Road. However, given the variation in plot sizes in the area, the frontages of the two houses and the associated plots shown on the indicative plan would not appear disproportionately large compared to other dwellings in the area to cause the development to appear uncharacteristic. Consequently, for the reasons given above, the development would be limited.
18. There are dwellings along the opposite side of Parish Hill to the appeal site and these continue along effectively the full length of this road, although there are open fields that separates some of the houses. No 49 Dodford Road is on the same side of Parish Hill as the appeal site, but its main elevation does not address Parish Hill. As such, there is not a house before the appeal site, on this side of Parish Hill, that would have a similar frontage to the appeal dwelling(s). However, there are dwellings on the opposite side of the road that do so as well as those on the same side as the appeal side further along the road.

² Appeal Reference: APP/P0240/W/20/3257146

³ R(Tate) v Northumberland County Council [2018] EWCA Civ 1519

19. When walking along Parish Hill, there are dwellings on both sides of the road that are clearly visible from the roadside, albeit the siting of those dwellings does vary. Furthermore, along the southern boundary of the site are the houses that continue along Dodford Road. While No 49 does not address the road, it does form part of the street scene along Parish Hill and as such, the site is bound on three sides by development and if two dwellings were built, the distances between them and the buildings either side would not appear disproportionate compared to the gaps between other houses in the area.
20. Regardless of the use of the appeal site, it forms a gap between existing development and if two dwellings were built on the site then they would infill this gap. The proposal, as shown on the indicative plan, would consequently sit comfortably alongside other development around it. Accordingly, the development would result in infilling.
21. Therefore, for the reasons given above, the proposal would be limited infilling in a village as per paragraph 154e) of the Framework and would result in the limited infilling in a Green Belt settlement as per BDP Policy BDP4. Consequently, the proposal would not be inappropriate development in the Green Belt, and the location, proposed land use and the amount of development proposed would be suitable in principle for infill residential development of up to 2 dwellings.

Other Matters

22. Comments have been received from interested parties and these have been considered below.
23. I note that there has been historic flooding in Bournheath and North Worcestershire Water Management (NWWM) considered this matter. It identified that site is in Flood Zone 1 and outside of an area at risk of surface water flooding. It also identified that there were no reports of flooding within the site itself. NWWM considered potential concerns with how the site would be drained, however, drainage is a matter that should be dealt with at the technical details consent stage. The Council came to a similar conclusion in determining the application and based on the information before me I see no reason to disagree.
24. Limited information has been provided at this stage regarding highway safety which is commensurate with the nature of the permission in principle stage process, which purely seeks to determine whether the location, land use and amount is acceptable in principle. These highways matters would be more appropriately determined as part of the technical details consent stage.
25. As the access arrangements would form part of the technical details consent stage, consideration of the Hedgerow Protection Regulations 1997 would be taken into account at that stage.
26. The effects of construction traffic and the generation of noise and disturbance arising during construction would be short-term and could be mitigated by careful construction management. This would be considered at the technical details consent stage.
27. Further matters related to character and appearance, living conditions, ecology and other technical details would also be considered at the technical details consent stage.

28. Given that I have determined that the proposal would be limited infilling in a village, it follows that the proposal would not lead to urban sprawl, encroachment into the countryside or lead to the merging of Fairfield and Bournheath.
29. The Council determined that the site would be acceptable on sustainability grounds for residential development. Based on the evidence before me and the distance between the site and the services and facilities that are available in Bournheath as well as other nearby settlements I see no reason to disagree.
30. Whilst the Council did refuse planning permission for 6 dwellings on a site on Fairfield Road⁴, that site was located on a different road and had a different relationship to Bournheath compared to the appeal site and that scheme was for a greater number of dwellings.
31. Reference had been made to dwellings on sites nearby in and around Bournheath that have been permitted. Whilst I do not have the details related to these cases, these were typically on sites smaller than the appeal site. Given that those sites were located on different roads and thus in different contexts the circumstances of those cases were likely different to the appeal before me. Whilst those sites were smaller this would not preclude larger sites from being developed, so long as they remained 'limited' for the purposes of BDP Policy BDP4 and paragraph 154e) of the Framework.
32. The scheme at Stanbridge that was dismissed at appeal⁵ varied from this scheme insofar as it was in a different settlement and was determined to be both physically and visually separated from the main built-up area of Stanbridge. For the reasons given above, I have found that this appeal site is not physically or visually separated from the main built-up area of Bournheath. Additionally, it was determined that the site was much deeper compared to the surrounding properties, which again would not be the case in this instance.
33. An appeal was dismissed on a site on Dodford Road, Bournheath⁶. However, in that case the appeal proposal considered against what was paragraph 89 (now paragraph 154g)) of the Framework for the 'limited infilling or the partial redevelopment of previously developed sites'. This is a separate exception to paragraph 154e) of the Framework under which this appeal has been assessed against. The site was also located on a different road to the appeal site and as such, the conclusions of that appeal decision have limited relevance to this scheme.
34. Planning permission was refused on this site a considerable time ago for the parking of cars. Whilst I have limited information about this scheme it sought permission for a different form of development to that proposed and thus has limited relevance to that proposed.
35. Each case must be assessed on its own merits and whilst there are some similarities between these cases, for the reasons given above I give these considerations limited weight in light of their limited relevance to the scheme before me.

⁴ Application Reference: 21/01148/OUT

⁵ Appeal Reference: APP/P0240/W/20/3257146

⁶ Appeal Reference: APP/P1805/W/16/3147028

36. Permission being granted on this site would not set a precedent for development elsewhere and in any event no persuasive evidence has been provided to support this contention.
37. The parish ward and electoral boundaries do not necessarily relate to development on the ground and often divide neighbouring properties in towns and villages. As such, it is not uncommon for neighbours to be within different parish wards and electoral boundaries.
38. Paragraph 70 of the Framework states that small and medium sites can make an important contribution to meeting the housing requirements of an area. While residential development is being built elsewhere this should not preclude other sites from coming forward.
39. The planning system does not exist to protect private interests such as the value of land and property. Thus, I have given this negligible weight in coming to my decision.

Conditions

40. As all detailed matters are subject to separate technical details consent, no conditions are attached to this permission in principle. The appellant's attention is, however, drawn to paragraph 7(b) of the Order which specifies that, where permission in principle is granted by application, the default duration of that permission is 3 years from the date of the permission.

Conclusion

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

G Sibley

INSPECTOR