



Appeal Decision

Site visit made on 23 July 2024

by R Kent BA (Hons) MTP DipM MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7th October 2024

Appeal Ref: APP/H1840/W/24/3337833

Shazam, Upper Street, Defford, Worcester, Worcestershire WR8 9BG

- 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 Julian Fullwood against the decision of Wychavon District Council.
 - The application Ref is W/23/01224/PIP.
 - The development proposed is "2 to 8 thoughtfully planned housing units."
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Decision

1. The appeal is allowed and permission in principle is granted for the construction of up to 6 housing units following the demolition of the existing dwelling at Shazam, Upper Street, Defford, Worcester, Worcestershire WR8 9BG in accordance with the terms of the application, Ref W/23/01224/PIP, dated 5 June 2023.

Preliminary Matters

2. The proposal is for permission in principle. Planning Practice Guidance 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. 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. The description in the heading above is an extract from the lengthy description provided on the permission in principle application form. The Council's Planning Committee Report and decision notice used a different version of the description with a reduced number of units which the Appellant has adopted in their appeal statement. It is unclear how the proposed number of units has changed between the application for permission in principle being made and the decision on it, but I have determined the appeal on the basis of the Council's description and the amended number of units.
5. The Council's Statement of Case indicated that the village is served by bus Service 54 operating two buses per day in either direction, Monday to Friday on school days only. It has since provided updated bus timetable information indicating that the service reduced to a single morning and afternoon service

from 3 September 2024. The appellant was invited to comment on this and I have determined the appeal on the basis of this updated information.

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.

Reasons

Location

7. Defford is defined as a Category 3 settlement in Annex D of South Worcestershire Development Plan 2016 (SWDP) Policy SWDP 2 with at least one key service (other than the village hall). As such, the policy indicates that in principle the village is suitable to accommodate market and affordable housing needs within the Development Boundary. The existing house, Shazam, and its immediate rear garden lie within the Defford village Development Boundary identified in the SWDP. The majority of the site lies outside, albeit adjacent to, the Development Boundary which runs along the rear of the dwellings fronting Upper Street. That part of the site therefore falls within the open countryside as defined by Policy SWDP 2 where new development is strictly controlled and restricted to specific limited types of development. The appeal proposals do not fall within any of these types.
8. The reasoned justification for the policy explains that sites beyond Development Boundaries are generally less sustainable as access to local services and employment opportunities tends to be poorer. In this case the site abuts the Development Boundary and would have similar access to the services in the village as the adjoining, existing dwellings.
9. The village has a school and a public house within walking distance. From the evidence, the nearest shop is a farm shop approximately 1.6km from the village. I visited the shop as part of my site visit and whilst it would be accessible from the site by bicycle albeit partly via the A4104, it is not well located for access by foot. This is due to the lack of footways on Harpley Road and outside the farm shop together with the absence of street lights. Whilst it may be possible to walk much of the way along the pavement adjacent to the A4104, there are no pavements between the A4104 and the shop. As a consequence, there would not be attractive pedestrian access to the shop.
10. Policy SWDP 4 requires that development proposals minimise the demand for travel and offers genuinely sustainable travel choices. The village does have a bus service to allow access to other services in Pershore and Worcester. The bus timetable valid from 3 September 2024 indicates the service to Pershore to be once a day in either direction on Mondays to Fridays on school days only. Therefore, whilst there is a bus service, it is limited and this inhibits its role as a genuinely alternative travel choice for those who may need to rely on the bus service for day to day needs, particularly during school holidays. Overall, travel by private car would therefore be likely to be a necessity for future occupants of the development needing to access services and employment.
11. The site location fronts Laburnham Cottage, a 17th century grade II listed building. Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that the decision maker, in considering whether to

grant planning permission for development which affects a listed building or its setting, must have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. The Housing and Planning Act 2016 requires this duty to be exercised when considering whether to grant permission in principle.

12. The listed building derives its significance principally from its architectural interest as a small, 17th century timber frame cottage. In terms of its setting, it is situated adjacent to the road and forward of the building line created by the more recent dwellings on either side. Together with the newer houses opposite, including on the appeal site, this more recent development means its setting has changed over time. The details of the appeal proposal are matters for the technical details stage should I be minded to allow the appeal. However, provided the proposed development is not forward of the existing building line, on the basis of the evidence before me, the principle of the development in this location would not impact on the significance of the asset. As a consequence, the principle of the development would not conflict with Policies SWDP 6 and SWDP 24 regarding the management of the historic environment.
13. It is suggested that the location of the development would affect the local drainage regime, including the flow of water from springs in the vicinity. I note that the Council's Drainage Engineer has not objected to the principle of the development, stating that the site is in flood zone 1 and in an area at low risk of surface water flooding. The Highway Authority has also identified that a new vehicular access would require measures to prevent surface water from the site running down onto the public highway. On the basis of this evidence, I have no reason to believe that a suitable drainage scheme could not be designed to prevent surface water run off on to adjoining properties as part of the technical details if I were minded to allow the appeal. This would ensure compliance with Policy SWDP 28 regarding management of flood risk.
14. I have seen no evidence to suggest that, in principle, a suitable access could not be accommodated in this location. I also note that the Highway Authority did not raise an objection to the principle of development on highway grounds. Whilst the proposed development would result in increased vehicle movements from the site, I am satisfied that these would not harm the character of Upper Street. I have seen no evidence to suggest that vehicle movements generated from a development in this location would result in unacceptable levels of air pollution or cause highway safety issues at nearby road junctions.
15. Although I have not found the site's location to harm the significance of the heritage asset and that drainage and access issues are technical matters to be addressed at the next stage if the appeal were to be allowed, the location of the development would nevertheless conflict with the strategy for the control of development in the countryside and moderate harm would result from the limited sustainable travel choices for all users. The proposal would therefore conflict with Policy SWDP 2 which seeks to control the impact of development in the countryside and with Policy SWDP 4 which aims to minimise the demand for travel.

Land use and amount of development

16. The part of the site nearest Upper Street is currently in residential use, occupied by a single detached dwelling, Shazam. It has a garden to the rear and, together with the adjoining properties, is set back from, and at a higher

level than, the road. There is a dwelling of similar design immediately to its north. To the south is a sequence of bungalows set back from the road along a consistent building line. As this part of the site is within the Development Boundary and constitutes previously developed land (PDL), the principle of further residential development on it would not conflict with SWDP 2 and would not be harmful provided it respects the character and appearance of the street. That would be a matter for the technical details stage if I were to allow the appeal.

17. To the rear of Shazam, beyond the Development Boundary, the site is divided into two parcels by a substantial hedge. The parcel adjacent to the Development Boundary behind Shazam is overgrown and appears to have been used as a grass tennis court. There is also a greenhouse and small shed which together with the tennis court give the parcel a more domestic feel. The second parcel beyond is a small field or paddock consisting of long grass and trees enclosed by a post and rail fence beyond which are open fields. Whilst the site as a whole is sufficiently large to accommodate up to 6 dwellings, the current use of both parcels provides a verdant, soft edge to the village which would be lost if they were to be developed for residential use. The site however is enclosed by houses on its southern and eastern sides and therefore the harm to the wider countryside would be contained. If the appeal were to be allowed, the technical detail stage would also provide the opportunity to secure appropriate landscaping to soften the appearance of the development.
18. For the reasons given, whilst an increase in the amount of residential development of up to 6 units could physically be accommodated on the site, the resulting moderate harm to the countryside arising from the land use would conflict with Policy SWDP 2 which seeks to control the impact of development in the countryside.

Other Considerations

19. Set against the harm identified, the development would have economic and social benefits. It would provide additional housing in an area of identified need and future occupiers would be able to support local services, including the bus service. Given the relatively small nature of the development, these benefits however would be modest.
20. The form, size and tenure of the dwellings is a matter for the technical details stage should I be minded to allow the appeal. Any eco-friendly design initiatives to minimise the environmental impact or maximise energy efficiency or renewable energy sources, such as solar panels, are not matters to be considered at this stage. For the same reasons, the impact of the development on the living conditions of the occupants of neighbouring properties, including from the use of the access and construction activity, are matters which would be addressed at the technical details stage if the appeal were to be allowed.
21. Whilst the development of the site could result in the loss of much of the current green space and trees to the rear of Shazam, I have not been provided with evidence of protected species on the site. The impact on biodiversity, including on trees, bats, wildlife corridors and habitats, together with potential new planting, would be a matter to be addressed before the grant of Technical Details Consent if I were minded to allow the appeal.

22. Reference has been made to other sites for new housing within the village. However, I do not have full details of those sites and have reached my own conclusions on the appeal proposal on the basis of the evidence before me. I have found no reason based on the evidence to conclude that the character of the village would be harmed by incremental growth associated with other such developments.
23. Concerns have also been raised about pressure on local services, such as doctors, arising from the development. However, I have not been provided with clear evidence of how such services might be harmed by the proposals. I note that the Council's Planning Committee report did not identify harm to such services and I have no evidence to come to a different conclusion.

Planning Balance

24. For the reasons given, the proposals would cause moderate harm to the strategy for the control of development and the character and appearance of the countryside. Moderate harm would also be caused by the limited opportunities for genuinely sustainable travel. The proposals therefore conflict with policies SWDP 2 and SWDP 4.
25. The SWDP dates from 2016 but the weight to be attached to it does not hinge on its age. Paragraph 225 of the Framework makes it clear that due weight should be given to existing policies according to their degree of consistency with the Framework. The need for sustainable transport and safe and suitable access for all users is recognised in the Framework which also recognises the intrinsic character and beauty of the countryside. Therefore, policies SWDP 2 and SWDP4 should be given significant weight in this appeal.
26. As there are no policies which positively favour development of this kind in this location and as the proposal would be contrary to the policies referred to above, there would be conflict with the development plan as a whole.
27. The Council accepts that it is unable to demonstrate a 5 year housing supply. Whilst new strategic settlement options might be under consideration, the Committee report for the proposal dated 9 November 2023, does not indicate the extent of the shortfall. The Delegated Decision Report by the Council for the separate planning application at Upton Road provided in the evidence states it has 3.68 years' supply, with 3.94 years' supply for the whole South Worcestershire Development Plan area. In such circumstances Paragraph 11(d) of the National Planning Policy Framework (the Framework) is engaged. This indicates that planning 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.
28. As described above, the contribution of up to 6 dwellings to the Council's overall housing land supply shortfall would be modest but is nevertheless a benefit to which I afford substantial weight. The economic and social benefits to local services are unspecified and due to the small size of the development are also likely to be modest. I therefore give them moderate weight.
29. As the site abuts the Development Boundary and is relatively contained, the conflict with the locational strategy and the harm to the countryside attracts moderate weight. The Framework indicates that opportunities to maximise

sustainable transport solutions will vary between urban and rural areas. This is also recognised in the reasoned justification to SWDP 4 which accepts that rural residents are more reliant on the use of cars than those in urban areas. This would be the case here for access to shops, services and employment. As a result, the development strategy seeks to focus new development largely within the urban areas and in villages/settlements that have good access to local services or where services can be enhanced through development. Through Policy SWDP 2, Defford is defined as one such village by its Category 3 status. Therefore, as the development plan identifies the village as one where growth may be considered and there would be access by foot, cycle and bus for some people, I attribute moderate weight to the lack of sustainable travel options.

30. Overall, I conclude that the adverse impacts of the development would not significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework taken as a whole. As a result, the presumption in favour of sustainable development does apply.

Conditions

31. The Council has submitted a condition specifying when the Technical Details Consent should be submitted. However, the PPG sets out that where permission in principle is granted, the default duration of that permission is three years. A condition restating that is not necessary.

Conclusion

32. The proposed development would conflict with the development plan but material considerations indicate that a decision should be made other than in accordance with it. For the reasons given above the appeal should be allowed.

R Kent

INSPECTOR