



Appeal Decision

Site visit made on 4 September 2024

by G Sibley MPLAN MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 October 2024

Appeal Ref: APP/H1840/W/23/3335948

Land off Sale Green Road, Sale Green, Worcestershire WR9 7LP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Ryan Hill of Cardwell Hill Developments Ltd against the decision of Wychavon District Council.
 - The application Ref is W/22/02740/FUL.
 - The development proposed is erection of a single dwelling.
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Decision

1. The appeal is dismissed,

Preliminary Matters

2. Revised plans were submitted with the appeal which sought to alter the red line boundary for the appeal site, as well as make changes to the landscaping and to identify the location of two Vehicle Activated Speed Signs, amongst other matters.
3. The 'Procedural Guide: Planning Appeals – England (2024)' advises that the appeal process should not be used to evolve a scheme as it is important that what is considered by the Inspector at appeal is essentially the same scheme that was considered by the local planning authority and by interested parties at the application stage.
4. In this case I consider that the changes to the appeal, as shown on the revised plans, would be a fundamental change to the application that results in a different scheme than that which was before the Council. These are material matters affecting the determination of this appeal and the changes have not been consulted upon and so I will not accept the amendments. Accordingly, I have determined the appeal having regard to the same proposal on which the Council made its decision.
5. A Unilateral Undertaking (UU) has been submitted during the appeal in respect of affordable housing. This is a matter which I will consider below.

Main Issues

6. The main issues relevant to this appeal are:
 - whether the proposal would be in a suitable location for residential development with regard to local policies
 - the effect of the proposal upon the landscape, character and appearance of the area and linked to this whether it would safeguard the open

countryside; and

- whether the proposal makes adequate provision for affordable housing.

Reasons

Location

7. Policy SWDP2 of the South Worcestershire Development Plan (SWDP), which was adopted in 2016, sets out the principles of the Council's strategy for development. The SWDP identifies that Sale Green is a lower category village (4B) in the settlement hierarchy, where infill development within settlement boundaries may be acceptable in principle.
8. It is not disputed between the parties that the appeal site is in the open countryside for the purposes of SWDP2, but adjacent to the development boundary for Sale Green. Part C of SWDP2 identifies several developments that are permitted in such locations.
9. The appeal site is a grassed field bound by hedges and trees and located between two dwellings. Whilst the site is located between two houses because it is located outside of the development boundary it cannot be considered to be infill development within the development boundary as permitted by SWDP2. Additionally, the proposed market dwelling would not accord with any of the other development that would be permitted in the open countryside by Part C of Policy SWDP2.
10. An appeal was dismissed on this site in 2023 for the erection of two new 4-bedroom dwellings and garages, with associated works¹. The adopted development plan at the time of that decision was the SWDP. This remains the adopted development plan at this time. The first refusal reason for that appeal and this appeal are similarly worded and covered similar matters. The main difference between that appeal and this one is that this scheme only seeks permission for a single dwelling. However, the Inspector's conclusions on this matter, which were similar to my own, are still relevant given that the site is in the same general location.
11. Therefore, the proposal would not be in a suitable location for residential development with regard to local policies. As such, it would conflict with Policy SWDP2 of the SWDP, insofar as it is relevant to this matter, for the reasons given above.

Landscape, Character and Appearance

12. The development in Sale Green consists of wayside dwellings built along Sale Green Road and several roads that spur off it. These houses are generally set back behind gardens and driveways that are bound by trees and hedges. The houses themselves vary in scale and appearance although there are several modestly sized dormer bungalows nearby. Whilst the style of the buildings vary red brick is a commonly used material in their construction.
13. The houses within Sale Green are clustered together and the gaps between the houses vary in size but are generally small side gardens and this creates a central cluster to the village. Outside of the village there are sporadically sited buildings separated by fields that are bound by trees and hedges. The dwelling

¹ Appeal Reference: APP/H1840/W/22/3311977

next to the site is located outside of the settlement boundary for Sale Green and is viewed in the context of the sporadically sited buildings in the open countryside given the gap between it and the development in the village.

14. The site is located just outside of the development boundary for Sale Green where there is a transition from the cluster of houses within the discrete settlement cluster and the rural landscape beyond it. There is a Public Right of Way (PRoW) that passes across part of the site, although I note the comments from the appellant regarding issues accessing this PRoW. Overall, the undeveloped appearance of the site, alongside the hedges and trees that bound it make a positive contribution towards the rural landscape outside of Sale Green.
15. The Council's Landscape Officer identified that the site is within the Wooded Estatelands Landscape Type as identified in the County Landscape Character Assessment Supplementary Guidance (2012). At a more localised level within the Landscape Description Unit, the site is within the Himbleton Wooded Estatelands. The Landscape Type is described as being a large scale, wooded agricultural landscape of isolated brick farmsteads, clusters of wayside dwellings and occasional small estate villages. The settlement pattern for the Landscape Type is one of discrete settlement clusters. The Landscape Description Unit advises that at a more local level the settlement pattern is one of small villages and hamlets, associated with a low level of dispersal.
16. Part Aiii of Policy SWDP2 seeks to safeguard and (wherever possible) enhance the open countryside. This is not the equivalent to the approach taken in the National Planning Policy Framework (the Framework) for 'valued landscapes' nor has the Council tried to equate it to that either. The policy requires a balanced consideration which the Council did so in its evidence, and it is evident in the other decisions I have been referred to, that I discuss later in this decision, that this policy does not prevent all development from occurring in the open countryside. Consequently, in this regard this element of the policy is consistent with the Framework and thus consistent with the conclusions of the Judgment in the Borough of Telford and Wrekin v Secretary of State for Communities and Local Government and ANOR [2016] EWHC 3073.
17. The proposed dwelling would be a large house set within spaciouly sized grounds bound by hedges and trees. The access point would reuse the existing farm access and there would be a modestly sized driveway and parking area in front of the house. The materials used would be consistent with the neighbouring houses and whilst the architectural design of the house would not replicate the buildings nearby, given the variety in terms of the appearance of houses locally, this would not necessarily be harmful.
18. The house would be seen between dwellings at the edge of the existing discrete settlement cluster for Sale Green and a wayside dwelling in this general location would not be inconsistent within this Landscape Type.
19. However, the proposed dwelling with the two symmetrical projecting gables would create a large bulky building that would appear to have a greater mass than the nearby houses. The dwelling and the associated domestic paraphernalia would urbanise the site and erode the physical and visual gap between the dwelling next to the site and the development within Sale Green. Whilst only a single dwelling is proposed the bulky scale of the house would be visible from a considerable distance given the relatively flat landscape nearby

- and the landscaping would not substantially soften the urbanising effect of this dwelling upon the local landscape.
20. The urbanisation of this site on the edge of Sale Green would have a permanent and harmful effect upon the character and appearance of the area and would erode the positive contribution this site makes towards the rural landscape outside of the village. The retention of the hedges around the site and the use of appropriate boundary treatment would retain this positive characteristic of the site. However, even if the land around the dwelling was landscaped to limit the overall effect, the domestication of the site and the construction of a significantly sized dwelling would result in the encroachment into the surrounding open countryside and harm this edge of village setting.
21. This scheme for a single dwelling would reduce the amount of built form proposed compared to the dismissed proposal. However, the development proposed would erode the positive contribution the appearance of the site makes towards the open countryside in this location and harm the landscape, character and appearance of the area and thus not safeguard the open countryside.
22. Reference has been made to several decisions made by the Council to permit residential development that was outside of the development boundary for other settlements within the District². The permission in principle cases related to the first permission in principle stage where only location, land use and amount of development is to be determined. As a result, matters such as design are generally considered at the technical details consent stage. This is not the case for this scheme that was submitted for full planning permission.
23. With regard to the two full applications at Crowle, in those instances the schemes had been supported by a Landscape and Visual Impact Assessment or a Landscape and Visual Appraisal which was not the case in this instance.
24. In those cases, the Council undertook an assessment and came to its judgement based on the facts and merits of those cases and the evidence before it. This is not dissimilar to the approach taken in this case, which was based on the evidence that was before the Council. In both cases it was determined that the sites were outside of the settlement boundary and thus contrary to Policy SWDP2 but the Council undertook a balancing exercise taking into account the material considerations in each case. The Council undertook such a balancing exercise when considering the application that led to this appeal. The weight given to the material considerations is a matter of planning judgement for the decision maker.
25. Furthermore, whilst those sites were located in the same Landscape Type as this site, Crowle was identified as not being typical of the identified settlement pattern for the Landscape Type, unlike Sale Green which is consistent as a discrete settlement cluster. Thus, the landscape context within which those sites were assessed varies considerably from this scheme.
26. Overall, whilst a wayside dwelling within this Landscape Type would not necessarily be out of character, the design and siting of the scheme would cause significant harm to the landscape, character and appearance of the area and fail to safeguard the open countryside. Consequently, the proposal would

² Application Reference: W/23/01754/PIP; W22/02345/PIP; W/22/00209/PIP; W/23/01743/PIP; W/22/01706/FUL; and W/22/02683/FUL.

conflict with Policies SWDP2, SWDP21 and SWDP25 of the SWDP. These expect, amongst other matters, for development to be appropriate with the character of the landscape setting as well as be of a high design quality that integrates effectively with its surroundings, in terms of form and function and safeguard or (wherever possible) enhance the open countryside. It would also conflict with the Framework insofar as it expects developments to be sympathetic to local character, including the surrounding built environment and landscape setting.

Affordable Housing

27. SWDP Policy SWDP15 states that within the Designated Rural Areas which the appeal site is within, proposals of less than 5 dwellings must make a financial contribution towards local affordable housing provision. This is based on the cost of providing the equivalent in value of 20% of the units as affordable housing. A signed UU has been submitted, making such a contribution.
28. I have considered the agreement in light of the statutory tests contained in Regulation 112 of the Community Infrastructure Levy Regulations and the Framework. I am satisfied that the UU and the obligations are necessary to make the development acceptable in planning terms, directly related to the development and are fairly related in scale and kind. As such, it would accord with the statutory tests.
29. Consequently, the scheme does make adequate provision for affordable housing in accordance with Policy SWDP15 of the SWDP. Furthermore, it would comply with the aim of the Framework to meet affordable housing needs.

Other Considerations and Planning Balance

30. The Council acknowledge that it can only demonstrate a 2.65 year housing land supply. As such, paragraph 11d) of the Framework is engaged. This states that where there are no relevant development plan policies, or the policies which are most important for determining the application are out of date, granting permission 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.
31. It is not disputed between the parties that the house would be in an acceptable location in terms of accessibility to services and facilities. The Inspector in the previous appeal on this site also came to a similar conclusion. Given that Sale Green is a category 4 settlement with connections to settlements nearby with services and facilities, I see no reason to come to a different conclusion.
32. In light of the Council's 5-year housing land supply position, the delivery of a single dwelling would make a positive contribution towards meeting this shortfall. Although, given that the scheme is for a single dwelling, it would make a limited contribution towards meeting said shortfall. However, the Framework does identify that small and medium sites can make an important contribution to meeting the housing requirement of an area, and are often built-out relatively quickly. As such, given that the scheme would contribute towards meeting this shortfall within the short term, I attribute modest weight in favour of the proposal to the delivery of a single dwelling in this location.
33. The proposed development would deliver a single dwelling and there would be economic benefits to the area both during and after construction. Additionally,

the occupiers of the proposed development would positively contribute towards the social fabric of the area. There would also be ecological benefits through additional landscaping, including planting trees and hedges, a wildflower meadow as well as bird and bat boxes and a bat corridor. Whilst the scheme is for a single dwelling, the ecological benefits would incorporate a relatively large parcel of land. Overall, I attribute modest weight to these benefits in favour of the development.

34. The affordable housing contribution would be secured via the UU, and it would ensure compliance with Policy SWDP15. Given the limited scale of the scheme and the contributions that would be secured I attribute limited weight to this in favour of the development.
35. It is also proposed that the house would be an energy efficient building and the Framework does support the transition to a low carbon future in a changing climate which this scheme would support. Given that this relates to a single dwelling I attribute very limited weight to this benefit in favour of the development.
36. The appellant proposes that two Vehicle Activated Speed Signs (VASS) would be delivered either end of Sale Green on Sale Green Road. Worcestershire County Council as the Highway Authority did not identify that the proposal would cause harm to highway safety nor that there was an issue with speeding vehicles nearby. Consequently, the VASS are not necessary to make the development acceptable in planning terms. Furthermore, the UU that was submitted with this appeal did not secure a mechanism to provide or maintain them. As a result, I attribute negligible weight to this in favour of the development.
37. The appellant states that the scheme would deliver a self-build dwelling. The benefits of custom or self-build housing are recognised by the Planning Practice Guidance finding that it helps to diversify the housing market and increase customer choice. The Framework also states that local planning authorities should seek opportunities, through policies and decisions, to support small sites to come forward for community-led development for housing and self-build and custom-build housing.
38. A section 106 obligation is likely to be the most appropriate method to secure matters relating to the ownership of the self-build house for a period of three years as well as bind the requirement to successors in title should the property be sold in the future. Whilst a UU has been submitted with this appeal it would not secure these matters.
39. The SWDP does not have a policy to deliver self-build properties and as such it is effectively silent on this matter. However, despite this, the Council has identified that it has granted permission for enough self-build properties to meet its identified need for them. Consequently, even if the self-build dwelling had been secured, there is not a shortfall in the need for such properties. Whilst the appellant may be the first occupier and could have had a primary input into the design, in light of the lack of a mechanism to secure the self-build property I attribute limited weight to this in favour of the scheme.
40. A PRoW passes across the site where the house is proposed, and the plans show the PRoW would be diverted. As far as I have been made aware a Public Path Order application has not been approved to divert this PRoW. The revised

location of the path could lead to an enhancement of this small section of the PRoW, however, at this time no such Order has been approved. As such, any benefits that may arise from this have not been secured and consequently I attribute negligible weight to this in favour of the scheme.

41. The proposed development would conflict with the identified settlement strategy of the SWDP, as well as harm the landscape, character and appearance of the area and fail to safeguard the open countryside.
42. Policies SWDP2, SWDP21 and SWDP25 seek to safeguard and (wherever possible) enhance the open countryside and for development to be appropriate with the character of the landscape setting as well as be of a high design quality that integrates effectively with its surroundings, in terms of form and function. These policies are consistent with Paragraph 135c) of the Framework which states that developments should be sympathetic to local character, including the surrounding built environment and landscape setting.
43. Overall, I consider that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies within the Framework taken as a whole.
44. For the reasons given above, the proposal conflicts with the development plan and the material considerations, including the Framework, do not indicate that the appeal should be decided other than in accordance with it.

Conclusion

45. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

G Sibley

INSPECTOR