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## Appeal Decision

Site visit made on 14 January 2025

by **G Sibley MPLAN MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 20 March 2025

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### Appeal Ref: APP/H1840/W/24/3346250

### 47 High Venture, Lower Cladswell Lane, Cookhill, Worcestershire B49 5JY

- 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 T Jarvis of Jarvis Construction Group Ltd against the decision of Wychavon District Council.
  - The application Ref is W/23/02395/FUL.
  - The development proposed is demolition of existing dwelling and erection of 3 new dwellings with associated works.
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### Decision

1. The appeal is allowed and planning permission is granted for demolition of existing dwelling and erection of 3 new dwellings with associated works at 47 High Venture, Lower Cladswell Lane, Cookhill, Worcestershire B49 5JY in accordance with the terms of the application, Ref W/23/02395/FUL, subject to the conditions in the attached schedule.

### Applications for costs

2. An application for an award of costs has been made by Mr T Jarvis of Jarvis Construction Group Ltd and this is the subject of a separate decision.

### Preliminary Matters

3. The National Planning Policy Framework (the Framework) was updated in December 2024 and amendments were made to it in February 2025, during the consideration of this appeal. Furthermore, the Planning Practice Guidance (PPG) was also updated in February 2025. The main parties were given the opportunity to comment on the updates to the Framework and the PPG and where they have been received these comments have been taken into consideration.
4. A planning obligation by way of Unilateral Undertaking (UU) under section 106 of the Town and Country Planning Act 1990 (as amended) was submitted during the consideration of this appeal, and I consider this matter later in this decision.

### Main Issues

5. The main issues relevant to this appeal are:
  - whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and relevant development plan policies
  - the effect of the proposal upon the character and appearance of the area; and

- whether the proposal makes adequate provision for affordable housing.

## Reasons

### *Whether Inappropriate Development*

6. The appeal site incorporates 47 High Venture which is a modestly sized single storey dwelling set within a spaciouly sized plot containing several outbuildings. The site is located within the settlement boundary for Cookhill identified in the South Worcestershire Development Plan (SWDP) but is within the Green Belt.
7. Policy SWDP 2E of the SWDP identifies that development proposed within the Green Belt will be considered in accordance with national policy set out in the Framework.
8. Paragraphs 154 and 155 of the Framework sets out certain forms of development that are not inappropriate within the Green Belt. Paragraph 155 states the development of homes should not be regarded as inappropriate where (a) the development would utilise grey belt land and would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan; (b) there is a demonstrable unmet need for the type of development proposed; (c) the development would be in a sustainable location, with particular reference to paragraphs 110 and 115 of the Framework; and (d) where applicable the development proposed meets the 'Golden Rules' requirements set out in Framework paragraphs 156-157.
9. The Framework defines 'grey belt' as land in the Green Belt comprising previously developed land and/or any other land that, in either case, does not strongly contribute to any of the purposes (a), (b), or (d) in paragraph 143, and excludes land where the application of the policies relating to areas or assets in footnote 7 (other than Green Belt) would provide a strong reason for refusing or restricting development.
10. The appeal dwelling is accessed via Lower Cladswell Lane but is set back from it behind a large garden and driveway. Either side of the appeal site are dwellings, and these are generally set back from the roadside a similar distance as the appeal property. Opposite the site are further dwellings, including one that is currently under construction. The dwellings along Lower Cladswell Lane vary in scale and appearance with a mix of bungalows and larger two storey houses. These dwellings are generally only separated by modestly sized gaps between them and in this context the appeal site is unusual with the dwelling set within spacious grounds. To the rear of the dwellings on the same side of the road as the appeal site is the open countryside.
11. Given that the site is enclosed between existing houses within the settlement boundary there are physical features in reasonable proximity that contain the site and as a result it does not strongly contribute towards the unrestricted sprawl of large built-up areas.
12. Cookhill is a village and is located a considerable distance from any nearby settlement and because the scheme would be located within the village, the site does not strongly contribute towards preventing neighbouring towns merging into one another.

13. Cookhill is not identified as a historic town nor has anywhere nearby been identified as such either. Consequently, the site does not strongly contribute towards preserving the setting and special character of historic towns.
14. Consequently, the site does not strongly contribute towards any of the identified purposes of paragraph 143 of the Framework. Furthermore, based on the information before me, the scheme would not affect any areas or assets in footnote 7 of the Framework (other than Green Belt). Consequently, the proposal would utilise grey belt land.
15. The site is within the settlement boundary between existing houses and thus is not in the countryside and the development of this site would not result in development extending beyond the village into the open countryside. As a result, the development would not fundamentally undermine safeguarding the countryside from encroachment. The site is located within Cookhill and would assist in urban regeneration, by encouraging the recycling of other urban land, insofar as land within the settlement is urban. Consequently, the scheme would generally accord with and not fundamentally undermine purposes (c) and (e) of paragraph 143 of the Framework and because the site does not strongly contribute towards the other purposes of the Green Belt the proposal would not fundamentally undermine the purposes (taken together) of the remaining Green Belt land across the plan area and would thus accord with criterion (a) of paragraph 155.
16. The Council acknowledges that it can only demonstrate a 2.65-year supply of housing land. Accordingly, there is a significant shortfall in the supply of housing land and for the purposes of criterion (b) of paragraph 155, there is a demonstrable unmet need for the type of development proposed.
17. Cookhill is identified as a Category 4B village in the SWDP and Policy SWDP 2 supports infill development within the defined development boundaries, such as the appeal site. The village also contains bus services to connect it with other settlements in the wider area where other services and facilities are available. Taking into consideration the availability of services and facilities by alternative transport options, as well as the compliance with the settlement hierarchy set out in the development plan, I concur with the Council that the site is in a sustainable location. Consequently, the site would comply with criterion (c) of paragraph 155, with particular reference to paragraphs 110 and 115 of the Framework.
18. The proposal would not be for major development and as a result, the 'Golden Rules' set out in paragraphs 156-157 of the Framework are not applicable.
19. For the reasons given above, the proposal would utilise grey belt land and would not fundamentally undermine the purposes of the remaining Green Belt. Furthermore, there is a demonstrable unmet need for housing, and the development would be in a sustainable location and the Golden Rules are not applicable. The proposal would therefore satisfy all of criteria (a)-(d) of paragraph 155 of the Framework and would not be inappropriate development within the Green Belt. As a result, the development would comply with SWDP Policy SWDP2 insofar as development shall be considered in accordance with national policy set out in the Framework.

### *Character and Appearance*

20. The existing dwelling is located close to the neighbouring property whilst the garden wraps around the bungalow. Whilst there are outbuildings sporadically sited around the garden, the garden land is generally open space between buildings. Ribbon development has been established along the road with the houses set back behind front gardens and driveways and are typically located close to each other with modestly sized gaps between them. Some houses do have larger gaps between them, but this is not typical along the road. The generally brick built dwellings are a mix of single storey and two storey properties and there is a mix of styles.
21. Whilst the large garden to the side of the appeal dwelling is not consistent with the pattern of development for the area, the undeveloped appearance of it does break up the ribbon development and offers a relief from the built form and thus makes a positive contribution towards the character and appearance of the area. Taking into consideration the existing pattern of development and because the countryside can be seen to the rear of the houses, the area has a semi-rural character.
22. The proposed development would result in three 1.5 storey dwellings being built across almost the full width of the site. Given that there are a mix of two storey and single storey houses in the area, the height of the dwellings would not appear disproportionately tall or small in this context. Furthermore, the depth of the houses would be similar to others nearby. The proposed gable additions to the front and the chimneys are also common in the area and dormer windows have been incorporated into the other houses nearby. Additionally, the facing brickwork and slate roofing would be similar in appearance to other houses in the area. The scale and the detailed architectural features proposed would create sympathetically designed dwellings that would be appropriate in this context.
23. The building line of the dwellings would be similar to the existing development along the road and the use of the frontages as gardens with driveways would be similar to other dwellings in the area. Furthermore, the modestly sized gaps retained between the houses and those either side would be similar in size to other development in the area. The depth of the plots would also be similar to those either side and this, alongside the gaps retained around the dwellings, would ensure the scheme would not appear overly developed compared to the existing development along the road. The appearance of the houses and their siting would integrate effectively with the ribbon development established along Lower Cladswell Lane.
24. Whilst the site is located towards the edge of the village, there are houses further along and opposite the site and these continue the development further into the open countryside. As such, the site is viewed within the settlement with development around it. The siting of the proposed houses would not extend the built form of the village into the countryside and because the views of the countryside to the rear would be retained, albeit to a lesser degree, the scheme would not significantly erode the countryside setting beyond the settlement. Furthermore, for the reasons given above the scale and design of the scheme would sit comfortably alongside the development nearby and overall, the development would retain the semi-rural character of the area.

25. The proposal would result in the loss of the large gap between houses, and this would lead to some harm to the existing character and appearance of the area. However, the appeal site is unusual in this context and the proposed development would be consistent with the existing pattern of development and would retain the semi-rural character of the area. Consequently, while there would be some harm, the development would not cause significant harm to the character and appearance of the area. Therefore, the development would comply with Policies SWDP 21 and SWDP 25 of the SWDP. These seek to ensure developments, amongst other matters, are of a high design quality that will need to integrate effectively with its surroundings and the character of the landscape setting.

#### *Planning Obligation*

26. SWDP Policy SWDP 15 states that on sites of less than five dwellings, proposals 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.
27. Whilst the UU does not include the appeal reference number, the application reference number and location plan has been included and as such there is sufficient information included within it to secure the obligations to this development.
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 SWDP 15 of the SWDP. Furthermore, it would comply with the aim of the Framework to meet affordable housing needs.

#### **Other Matters**

30. Taking into consideration the existing dwelling on the appeal site, the proposal would result in two net dwellings being built on Lower Cladswell Lane. As a result, there would be additional vehicles using the road as well as entering and exiting the driveways for the houses. Whilst the site is located on a relatively narrow road, a condition requiring the proposed access, on-site car parking and turning areas are properly prepared would ensure that vehicles could exit the site in a forward gear as well as provide appropriate on-site parking. This, as well as ensuring the gates for the accesses open inwards, would ensure that vehicles entering and exiting the site would not have an unacceptable impact on highway safety.
31. Furthermore, given that only 2 net dwellings would be secured by this development, the additional traffic movements from this scheme are likely to be limited. Whilst I note there may be existing traffic issues these were not identified by the Worcestershire County Council's Senior Transport Planner concerning this scheme and I have no substantive evidence that this limited increase in traffic movements would have an unacceptable impact on highway safety.

32. The appeal site is relatively large and as such construction traffic would likely be able to park on the site during construction. Even if this was not to be the case, there are parking bays along the road and based on the evidence before me they are available to the public. So long as construction vehicles park safely within the bays or on site then I find no reasoned justification to conclude that those parked vehicles would have an unacceptable impact on highway safety.
33. I note that the Worcestershire County Council's Senior Transport Planner did not object to the application on highway safety grounds and based on the information before me I find no reason to conclude differently.
34. The site is located in Flood Zone 1 but based on the evidence before me it is in an area that has issues with road drainage, including a nearby culvert. A drainage layout was submitted alongside the application and the Council's Assessment Engineer – Land Drainage confirmed that the submitted drainage layout provided sufficient information and was in principle satisfactory. In light of the drainage layout, robust evidence has been provided to determine that the proposal would not increase flood risk elsewhere. The Council came to a similar conclusion and based on the information before me I see no reason to conclude otherwise.
35. A Preliminary Ecological Appraisal (PEA) was undertaken which determined that other than birds and badgers there would be no other obvious and immediate issues for this development with regard to any other protected species. The PEA identified that the main property has been well maintained and there are no obvious access points for bats and that there appear to be no obvious and immediate implications for the proposed development with regard to bats. A condition requiring that the measures recommended in the PEA to ensure species are protected during construction could ensure those protected species are protected.
36. There is a conservatory to the rear of 51 Lower Cladswell Lane (No 51) and one of the proposed dwellings would be located close to it. However, the proposed dwelling sited next to No 51 would not extend beyond the rear elevation of it and this would ensure that the proposal would not appear significantly overbearing to the occupiers of No 51. Additionally, the boundary treatment would provide screening between the two dwellings to secure privacy. The Council also came to a similar conclusion on this matter and there is no substantive evidence before me that would lead me to come to a different conclusion on this matter.
37. Each case must be determined on its own merits, and I have no robust evidence before me that this decision would lead to a precedent being set for development elsewhere. Following on from this, whilst an application and appeal for residential development was refused on another site in Cookhill<sup>1</sup>, national planning policy related to sites within the Green Belt has been updated since that application was considered. This scheme was also located on a different road and related to a development for six dwellings with most of the dwellings sited towards the rear of existing development on that road. It was determined that the proposal would result in an incongruous form of development, unlike the scheme before me. This change in circumstances and the significant differences between the layout of the schemes has led me to a different outcome in this instance.

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<sup>1</sup> Application Reference: W/23/0733/PIP & Appeal Reference: APP/H1840/W/23/3331078

38. The proposal would provide financial contributions towards affordable housing provision so whilst the proposed dwellings would not provide 'affordable housing' as per the definition set out in the Glossary of the Framework, the scheme would contribute towards affordable housing provision.

### **Conditions**

39. Having had regard to the requirements of the Framework and the PPG I have imposed those conditions I consider meet the six tests, subject to minor amendments to ensure precision and brevity without changing their overall intent.
40. Further to the standard commencement condition [1], a condition requiring the development is carried out in accordance with the approved plans is necessary in the interest of certainty [2]. Furthermore, for the reasons given above, it is necessary that the development is carried out in accordance with the drainage strategy in the interest of ensuring the site is adequately drained and to ensure the development would not increase the risk of flooding elsewhere. Given that the drainage strategy set out in Y714-BPL-00-XX-DR-C-0021 P3 is significantly more detailed and more recently prepared, it is not necessary to also include the drawing showing the indicative drainage layout (23/020-104B) as suggested by the Council. Conditions 8 and 9 are necessary for similar reasons as well as to comply with SWDP Policy SWDP 29 which seeks to minimise flood risk.
41. A condition requiring a programme of archaeological works is necessary to ensure work that could affect archaeological remains is not undertaken before a programme of works is approved [3]. It is necessary for this condition to be pre-commencement for this reason as well.
42. Conditions 4 and 5 are necessary in the interest of the character and appearance of the area.
43. SWDP Policy SWDP 27 requires new developments to reduce carbon emissions and secure sustainable energy solutions and condition 6 is necessary in order to satisfy the requirements of this policy.
44. Condition 7 is necessary to ensure appropriate refuse storage facilities are secured in the interest of the occupiers of the developments living conditions.
45. A condition requiring sheltered and secured cycle parking is necessary in the interest of highway safety and to encourage alternative means of transport in accordance with SWDP Policy SWDP 21 [10].
46. While not suggested by the Council a condition requiring the proposed access, on site car parking and turning areas is properly prepared and the gates are inward opening is necessary in the interest of highway safety [11].
47. While not suggested by the Council a condition requiring that the development is carried out in accordance with the recommendations set out in the Preliminary Ecological Appraisal is necessary in the interest of protecting protected or priority species [12].
48. Paragraph 55 of the Framework indicates that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. Given that I have determined that the proposal would not harm the character and appearance of the area and because the dwellings would

sit comfortably with ample space around them within modestly sized plots, there is no clear justification that removing the permitted development rights to extend the dwellings or to construct buildings/enclosures would be necessary to make the development acceptable in planning terms. Consequently, such a condition would not comply with the Framework.

### **Conclusion**

49. The proposed development complies with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Therefore, for the reasons given above, I conclude that the appeal should be allowed.

*G Sibley*

INSPECTOR

### Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing nos: 23-020-01; 23-020-100E; 23-020-101B; 23-020-102C; 23-020-103B; and Y714-BPL-00-XX-DR-C-0021 P3.
- 3) No development shall take place until a programme of archaeological works, including a Written Scheme of Investigation, has been submitted to and approved in writing by the local planning authority. The Written Scheme of Investigation shall include an assessment of significance and research questions; and:
  - i. The programme and methodology of site investigation and recording
  - ii. The programme for post investigation assessment
  - iii. Provision to be made for analysis of the site investigation and recording
  - iv. Provision to be made for publication and dissemination of the analysis and records of the site investigation
  - v. Provision to be made for archive deposition of the analysis and records of the site investigation; and
  - vi. Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the approved Written Scheme of Investigation and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

- 4) No development above ground level shall take place until details / samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details / samples.
- 5) Prior to the first occupation of the development hereby permitted details of the positions, height, design, materials and type of boundary treatment to be erected shall be submitted to and approved in writing by the local planning authority. The boundary treatment shall be completed as in accordance with the approved details before the buildings are occupied.
- 6) Prior to the first occupation of the development hereby permitted details of renewable or low carbon energy generating facilities to be incorporated as part of the development shall be submitted to and approved in writing by the local planning authority. The details shall demonstrate that at least 10% of the predicted energy requirements of the development will be met through the use of renewable/low carbon energy generating facilities. The approved facilities shall be provided prior to any part of the development hereby permitted being first occupied or in accordance with a timetable submitted to

- and approved in writing by the local planning authority as part of the details required by this condition and shall be retained as such thereafter.
- 7) Prior to the first occupation of the development hereby permitted, details of the refuse storage facilities to serve the development and/or each of the dwellings hereby permitted shall be submitted to and approved in writing by the local planning authority. The approved refuse storage facilities shall be implemented prior to the first occupation of the development hereby permitted and shall be retained as such thereafter.
  - 8) Prior to the first occupation of the development hereby permitted, the details set out in the submitted Water Management Statement, shall be fully implemented and retained as such thereafter.
  - 9) Prior to the first occupation of the development hereby permitted, the drainage strategy shall be carried out in accordance with drawing no Y714-BPL-00-XX-DR-C-0021 P3 and retained as such thereafter.
  - 10) Prior to the first occupation of the development hereby permitted, details of sheltered and secure cycle parking to comply with the Worcestershire County Council's Streetscapes Design Guide (2022) shall be submitted to and approved in writing by the local planning authority. The approved sheltered and secure cycle parking shall be implemented prior to the first occupation of the development and shall be retained and kept available for the parking of bicycles only.
  - 11) Prior to the first occupation of the development hereby permitted the proposed access / on-site car parking / turning areas shall be provided in accordance with drawing no 23-020-100E and be retained thereafter available for those specific uses. Any gates provided at the vehicular accesses shall be inward opening only.
  - 12) The development hereby permitted shall be carried out in accordance with the 'Conclusions and Recommendations' set out in Chapter 4 of the Preliminary Ecological Appraisal, dated 21 August 2023, prepared by the Worcestershire Wildlife Consultancy.

End of Schedule