



Appeal Decision

Hearing (Virtual) held on 25 January 2022

Site visit made on 26 January 2022

by Diane Cragg Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 February 2022

Appeal Ref: APP/H1840/W/21/3277713

Land at Froxmere Road, Crowle, Worcestershire WR7 4AL

- 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 Mr Liam Good (Platform Housing) against the decision of Wychavon District Council.
 - The application Ref 20/00143/FUL, dated 20 January 2020, was refused by notice dated 1 June 2021.
 - The development proposed is erection of 12no affordable dwellings with associated site access and infrastructure.
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Decision

1. The appeal is allowed, and planning permission is granted for the erection of 12no affordable dwellings with associated site access and infrastructure on land at Froxmere Road, Crowle, Worcestershire WR7 4AL in accordance with the terms of the application, ref 20/00143/FUL, dated 20 January 2020 and subject to the conditions set out in the schedule at the end of this Decision.

Applications for costs

2. An application for costs was made by Mr Liam Good of Platform Housing against Wychavon District Council. This application is the subject of a separate Decision.

Preliminary Matters

3. A review of the South Worcestershire Development Plan (2016) (SWDP) is underway, however, the parties agreed at the Hearing that the review has not advanced sufficiently for other than limited weight to be attached to it. I have determined the appeal accordingly.
4. A signed and sealed agreement dated 20 January 2022 pursuant to section 106 of the Town and Country Planning Act 1990 (as amended) (s106 agreement), has been submitted during the appeal process. The s106 agreement is discussed later in this Decision.

Main Issues

5. The main issues are:
 - whether the appeal site is an appropriate location for the proposed development having regard to local and national planning policies in respect of affordable housing with particular regard to local housing need.

- if it is, whether the s106 agreement would secure the provision of on-site affordable housing.

Reasons

Location

6. The appeal site comprises 0.52ha of grassland adjacent to Froxmere Road on the east side of Crowle. It is part of a field of rough pasture and former orchard with a horse paddock immediately to the north. A public footpath runs along the western boundary of the land between the site and residential dwellings. To the east side the land adjoins a detached dwelling in a large plot.
7. The appeal site is being advanced as a rural exception site for the delivery of 12 affordable houses. Policy SWDP2 of the SWDP sets out the development strategy and settlement hierarchy for the South Worcestershire area. The policy confirms that open countryside is defined as land beyond any development boundary. In the countryside development will be strictly controlled and will be limited to a number of development types including rural exceptions sites in accordance with SWDP16.
8. Policy SWDP16 (Rural Exception Sites) sets out that affordable housing development will be permitted on small sites beyond, but reasonably adjacent to, the development boundaries of villages, where it is demonstrated that there is a proven and as yet unmet local need, having regard to the latest Worcestershire Strategic Housing Market Assessment, the Sub-regional Choice-based Letting Scheme and other local data e.g. Neighbourhood Plan, Parish Survey or Parish Plan; that no other suitable and available sites exist within the development boundary of the settlement; and secure arrangements exist to ensure the housing will remain affordable and available to meet the continuing needs of local people.
9. The policy approach of the SWDP is consistent with the Framework, where it states that in rural areas local planning authorities should support opportunities to bring forward rural exception sites that will provide affordable housing to meet identified local needs.
10. In terms of whether the site is a small site, the Affordable Housing Supplementary Planning Document (SPD)¹ acknowledges that an exact definition of 'small site' is not given as this will in part depend on the size of the settlement it is associated with. Whilst I have noted the concerns of the Parish Council in this respect, at the Hearing the parties agreed that the site size was proportionate to the size of the village and would be termed small for the purposes of the policy. The appeal site would be restricted to one part of a single field and although it would have a relatively wide road frontage, I agree that the appeal site is small in terms of the extent of the village. I am also satisfied that it is reasonably adjacent to the development boundaries of the village.
11. Paragraph 4 of the text to Policy SWDP16 clarifies that 'local need' for the purposes of Part Ai. means local need in the parish and adjoining parishes. Specifically, it was agreed at the Hearing that the relevant adjoining parishes are those that are geographically adjoining Crowle. The adjoining parishes are Oddington, Huddington, Upton Snodsbury, Broughton Hacket and Tibberton.

¹ Paragraph 3.38

12. As acknowledged in the SPD, the latest Worcestershire Strategic Housing Market Assessment (SHMA), analyses data and trends relating to local housing markets and issues of affordability of housing. In broad terms it provides the evidence base that underpins affordable housing need and identifies that there is a need for affordable housing in the district. It does not however indicate a specific local need in the context of the requirements of SWDP16. Therefore, even if there is an affordable housing need across Wychavon District, this does not necessarily indicate an affordable housing need in Crowle or the adjoining parishes.
13. The Crowle Parish Housing Needs Survey (HNS) was undertaken in 2017. It identified the need for 12 affordable housing units, with 10 out of the 12 expressions of need indicating that their need was in 1 to 3 years and 2 requiring affordable housing in 3 to 5 years. Although the survey concludes that there is a need for 12 houses over the next 5 years within Crowle all with a local connection to the village, the HNS has not been updated and no supplementary survey work has been undertaken to establish if the housing need in Crowle has changed. Therefore, the HNS provides some understanding of the potential housing needs of local people, but it is not an up-to-date position of housing need in Crowle. My attention has not been drawn to any HNS for any of the adjoining parishes.
14. Nevertheless, Policy SWDP16 sets out a range of documents to have regard to in establishing proven and as yet unmet housing need, and the SPD sets out that in rural areas HNS supplemented with information from the relevant housing waiting lists are used to provide evidence for the need for affordable housing.
15. The Council considers that the most up-to-date area based specific source of information regarding local affordable housing need is the housing register. The Homes Choice Plus data was considered to reflect housing need more accurately at the time the planning application was considered. However, in the intervening period the Council is satisfied that the Housing for You register can be relied upon to establish accurate evidence of housing need. At the Hearing the Council clarified that in Crowle and adjoining parishes there are currently 10 people on the Housing for You register identified as having a housing need in Crowle and the adjoining parishes.
16. The text to Policy SWDP16 indicates that those who have a local connection to the parish will be eligible to occupy properties, and this is reflected in the rural lettings policy. Those eligible would include those who have close family living in the parish and those permanently employed in the parish. The housing waiting list does not include those with a local connection who may be eligible to occupy premises, and therefore the need may exceed the number of people on the waiting list.
17. However, the s106 agreement defines qualifying resident in the context of the appeal site as meaning a person who is in need of affordable housing and who is on the Housing for You Register and meets one of a number of local connection criteria. Therefore, the figure on the housing register reflects the current need for housing in the parish and adjoining parishes as identified for the purposes of allocating affordable housing in the first instance.
18. In terms of the dwelling sizes required by those on the register in affordable housing need in Crowle and adjoining parishes, the register identifies that there

is a need for 5 one-bedroomed, 4 two-bedroomed and 1 three-bedroomed dwellings. The house sizes on the register are not notably inconsistent with the HNS, nor are the sizes incompatible with the house sizes in the proposed scheme.

19. Regarding the supply of other affordable dwellings in the parish and adjoining parishes, the Council confirms that there are 3 affordable houses being constructed in Upton Snodsbury that have not yet been allocated and would be available for those in affordable housing need. It is reasonable to assume that these properties will be allocated to persons on the Housing for You register and consequently the need in Crowle and adjoining parishes could be reduced by 3.
20. This is complicated by the fact that those eligible for the properties will include parishes beyond those of Crowle and adjoining parishes, because adjoining parishes to Upton Snodsbury will be geographically different. Even so, if all 3 properties are allocated to persons in housing need in Crowle or adjoining parishes this would reduce the need to 7 dwellings.
21. The Parish Council has also drawn to my attention the Cala Homes site in Crowle developed in approximately 2016/2017. Although the Parish Council considers that the affordable houses provided within that scheme would reduce the overall affordable housing need identified in the HNS. At the Hearing the Council was satisfied that this development was not relevant to the assessment of the appeal proposal, would not affect the figures in the HNS and was not relevant to the supply of affordable housing.
22. Policy SWDP16, part Aii. requires demonstration that no other suitable and available sites exist within the development boundary of the settlement. The Council clarified at the Hearing that the requirement of the policy in this respect relates only to Crowle and that no such sites are available. Although there is reference to an emerging allocation in the review of the SWDP that could provide some affordable housing, as the review is at an early stage, little weight can be given to the potential of a future allocation to provide affordable housing.
23. Bringing these matters together, it is agreed that the site is small and adjacent to the development boundary of Crowle. The evidence before me is that there is an affordable housing need for between 7 and 10 dwellings in Crowle and adjoining parishes. The HNS identified an affordable housing need for 12 dwellings and the housing register continues to identify a need for affordable housing in the parish and adjoining parishes. Various calculations of need over the period of the consideration of the application and appeal have consistently shown a need for affordable housing.
24. Policy SWDP16 requires that it is demonstrated that there is a proven and as yet unmet local need for affordable housing. Although housing need may fluctuate, a proven need for affordable housing is demonstrated, the appeal site would provide houses to fulfil that need and no other sites within Crowle have been identified that would.
25. Consequently, the appeal site is an appropriate location for the proposed development, having regard to local and national planning policies in respect of affordable housing. The development would accord with Policies SWDP2 and SWDP16 of the SWDP. It would also accord with the Framework.

Section 106 agreement

26. The parties agree that the s106 agreement would ensure that the proposed housing will remain affordable and available to meet the continuing needs of local people. In this respect the s106 agreement would satisfy part Aiii. of Policy SWDP16. The agreement also provides for social rather than affordable rents in accordance with the Council's requirements.
27. In addition, the s106 agreement secures the provision of the on-site open space identified on the appeal plans and its future management and maintenance. It is agreed that on-site open space is necessary. The provision of open space is supported by SWDP21 which seeks accessible, well designed open spaces appropriately detailed and maintained, and where the SPD states that sites that are 100% affordable housing will be expected to provide onsite provision for open space.
28. I have considered the agreement in the light of the statutory tests contained in Regulation 122 of the Community Infrastructure Levy Regulations and the Framework. I am satisfied that the s106 agreement is necessary to make the development acceptable in planning terms, directly related to the development and is fairly related in scale and kind. As such it would accord with the statutory tests.

Other Matters

29. I have noted the detail of the Hunstanton case² and I consider my approach to the main issues in this appeal are consistent with it.
30. The proposed dwellings would appear in keeping with their surroundings in character and appearance terms. The retention of hedgerows and vegetation will assist in this respect and their maintenance can be achieved by way of a planning condition. With the positioning of the proposed dwellings and the separation distances to the neighbouring residential properties, the effect on the living conditions of the occupiers would not be unacceptable. Whilst the site is undeveloped at present, and local residents will experience a changed environment, as a rural exception site the location of the appeal site accords with policies that seek to ensure such sites are reasonably adjacent to the development boundaries of villages.
31. The Council confirms that there is no Tree Preservation Order covering the trees within the site. Nevertheless, protection of the trees during the construction phase of the development and a landscaping scheme, which could incorporate the trees, can be secured by condition.
32. There is concern that the appeal site is located away from village facilities, but Policy SWDP2 identifies Crowle as a category 3 village. According to Policy SWDP2 such villages have a range of local services and facilities, and their role is predominantly to meet locally identified housing needs and are suited to accommodate affordable housing. Following my site visit I am satisfied that the appeal site would be accessible on foot or by bicycle to the local facilities within the village, and there are opportunities to access facilities by other means than the car. In this respect, Policy SWDP2 takes local circumstances into account

² Old Hunstanton Parish Council v Secretary of State for Communities and Local Government and others [2015] EWHC 1958

reflecting the character, needs and opportunities of the area in accordance with paragraph 9 of the Framework.

33. Although there may be a possibility that some dwellings within Crowle and adjoining parishes could be brought forward because of permitted development rights. There is no evidence before me of any such sites. I therefore attach little weight to the possibility that permitted development rights could reduce the need for affordable housing in Crowle or the adjoining parishes.
34. Local residents and Councillors have also expressed a wide range of concerns including, but not limited to the following: traffic impact; drainage, archaeology, landscape character, noise generated by the siting of the air source heat pumps and ecology. However, I note that these matters were considered where relevant by the Council at the application stage and did not form part of the reasons for refusal, which I have dealt with in the assessment above. Whilst I note the concerns of local residents and Councillors, there is no compelling evidence before me that would lead me to come to a different conclusion to the Council on these matters. I have considered this appeal proposal on its own merits and concluded that it would not cause harm for the reasons set out above.

Conditions

35. Conditions were proposed and agreed between the parties in the Statement of Common Ground, including pre-commencement conditions. These were discussed at the Hearing and having had regard to the discussion and the requirements of the Framework and the Planning Practice Guidance (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.
36. In addition to the time limit condition, I have imposed a condition in the interests of certainty concerning the approved plans. Details of the materials of the development are needed to ensure that the development has a satisfactory appearance. To minimise flood risk, enhance biodiversity and to demonstrate that areas to be lit will not disturb or prevent bats using their territory, drainage, biodiversity, and lighting conditions are imposed.
37. In the interests of protecting the living conditions of the nearest residents and for highway safety reasons I have also applied a condition requiring a Construction Environmental Management Plan. A condition requiring the slab level heights is applied in the interests of the character and appearance of the area.
38. In the interests of sustainability, measures to be incorporated into the development which promote carbon reduction, enhance resilience to climate change, promote sustainable travel choices, and support electric vehicle charging to serve the dwellings, are imposed.
39. To ensure that the development would meet its own access and parking needs highway conditions are imposed. I have also imposed a condition in the interests of public health concerning land contamination.
40. It was agreed at the Hearing that as no gas boilers are proposed within the development, a condition requiring details of NOx emissions is not necessary. Following my site visit I am satisfied that upward extensions and side facing

windows are adequately controlled by the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, and no further condition restricting permitted rights is necessary or reasonable. A separate condition is not necessary to restrict construction work and delivery times as the requirement for these details has been incorporated into the required Construction Environmental Management Plan.

Conclusion

41. For the reasons given above, I conclude that the proposal would accord with the development plan and the Framework, and therefore the appeal is allowed.

Diane Cragg

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans and details: drawing numbers SJD-161-101D; SJD-161-102D; SJD-161-100Q; Hepworth Acoustics report No: P20-193-R01v1 June 2020
- 3) No development shall commence until details of the materials to be used in the construction of the external surfaces of the proposed dwellings hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
- 4) The development hereby approved shall not commence until a Construction Environmental Management Plan has been submitted to and approved in writing by the Local Planning Authority. This shall include but not be limited to the following:
 - a) Measures to ensure that vehicles leaving the site do not deposit mud or other detritus on the public highway;
 - b) Details of site operative parking areas, material storage areas and the location of site operatives' facilities (offices, toilets etc);
 - c) Details of any hoarding/fencing to be set back clear of visibility splays;
 - d) Measures to control the emission of dust and dirt during construction;
 - e) The times when demolition, clearance or construction work and deliveries to and from the site in connection with the development are proposed, and arrangements for unloading and manoeuvring; and
 - f) Details of any temporary construction accesses and their reinstatement.

The measures set out in the approved plan shall be carried out and complied with in full during the construction of the development hereby approved. Site operatives' parking, material storage and the positioning of operatives' facilities shall only take place on the site in locations approved in writing by the Local Planning Authority.

- 5) Before the commencement of the development hereby permitted, including any site clearance, an ecological mitigation and enhancement scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be based on the recommendations contained within the Preliminary Ecological Appraisal by Dr Stefan Bodnar dated November 2019 and further informed by an updated walkover survey. It shall include but need not be restricted to:
- i. Reasonable avoidance measures for great crested newts;
 - ii. Precautionary measures for site clearance and the construction phase to avoid harm to protected and notable species;
 - iii. Provision of bat and bird boxes and suitable shelter habitat for hedgehogs;
 - iv. Creation of refugia / hibernacula; planting suitable for pollinators;
 - v. Implementation timetable.

The works shall thereafter be carried out in accordance with the approved details and timetable.

- 6) Temporary fencing for the protection of all retained trees/hedges on site and trees outside the site whose Root Protection Areas fall within the site shall be erected in accordance with BS 5837:2012 (Trees in Relation to Design, Demolition and Construction) before development of any type commences, including site clearance, demolition, materials delivery, vehicular movement, and erection of site huts.
Any alternative fencing type or position not strictly in accordance with BS 5837 (2012) must be agreed in writing by the Local Planning Authority prior to the commencement of development.
This protective fencing shall remain in place until the completion of development. Nothing should be stored or placed (including soil), nor shall any ground levels be altered, within the fenced area. There shall be no burning of any material within 10 metres of the extent of the canopy of any retained tree/hedge.
- 7) Development shall not begin until the engineering details and specification of the proposed roads, existing and proposed footways and highway drains, relocation of existing speed limit signs and village gates have been submitted to and approved in writing by the Local Planning Authority.
- 8) No works in connection with site drainage shall commence until a SuDS management plan, which will include details of future management responsibilities along with maintenance schedules for all SuDS features and associated pipework, has been submitted to and approved in writing by the Local Planning Authority. This plan shall detail the strategy that will be

followed to facilitate the optimal functionality and performance of the SuDS scheme throughout its lifetime. The approved SuDS management plan shall be implemented in full in accordance with the agreed terms and conditions and shall be managed and maintained in accordance with the approved maintenance plan thereafter.

- 9) Prior to the first use/occupation of the development hereby permitted, the details set out in the submitted CSG Flood Risk Assessment (1092 Revision C) and CSG Drainage Strategy drawing number 1092-002 Rev H shall be fully implemented and remain thereafter.
- 10) The construction work on the buildings hereby approved shall not be commenced until the precise floor slab levels of each new building, relative to the existing development on the boundary of the application site have been submitted to and approved in writing by the Local Planning Authority. Thereafter the new buildings shall be constructed at the approved floor slab levels.
- 11) Before the commencement of construction works on the development hereby permitted a scheme of landscaping shall be submitted to, and approved in writing by, the Local Planning Authority. The landscaping scheme shall include:-
 - a) a plan(s) showing details of all existing trees and hedges on the application site. The plan should include, for each tree/hedge, the accurate position, canopy spread and species, together with an indication of any proposals for felling/pruning and any proposed changes in ground level, or other works to be carried out, within the canopy spread.
 - b) a plan(s) showing the layout of proposed tree, hedge and shrub planting and grass areas.
 - c) a schedule of proposed planting - indicating species, sizes at time of planting and numbers/densities of plants.
 - d) a written specification outlining cultivation and other operations associated with plant and grass establishment.
 - e) a schedule of maintenance, including watering and the control of competitive weed growth, for a minimum period of five years from first planting.

All planting and seeding/turfing shall be carried out in accordance with the approved details in the first planting and seeding/turfing seasons following the completion or first occupation/use of the development, whichever is the sooner. The planting shall be maintained in accordance with the approved schedule of maintenance. Any trees or plants which, within a period of five years from the completion of the planting, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

- 12) Before any dwelling hereby approved is first occupied, visibility splays shall be provided from a point 0.6 m above ground level at the centre of the

junction with Froxmere Road to the application site and 2.4 m back from the nearside edge of the adjoining carriageway, (measured perpendicularly), for a distance of 140 m in an easterly direction along the nearside edge of the adjoining carriageway and 140 m in a westerly direction with a 0.600m offset. Nothing shall be planted, erected and/or allowed to grow on the triangular area of land so formed which would obstruct the visibility described above and these areas shall thereafter be retained and kept available for visibility purposes at all times.

- 13) The development shall not be occupied until the road works necessary to provide access from the nearest publicly maintained highway have been completed in accordance with details submitted to and approved in writing by the Local Planning Authority.
- 14) The dwellings hereby permitted shall not be occupied until the individual accesses, footpath and footway links and vehicle and cycle parking spaces shown on the approved plan SJD-161- 100 Rev Q have been properly consolidated, surfaced, drained, and otherwise constructed in accordance with details to be submitted to and approved in writing by the Local Planning Authority and these areas shall thereafter be retained and kept available for those uses at all times.
- 15) Four of the 12 dwellings hereby permitted shall not be first occupied until the four dwellings have been fitted with an electric vehicle charging point. The charging points shall comply with BS EN 62196 Mode 3 or 4 charging and BS EN 61851 and the Worcestershire County Council Streetscape Design Guide. The electric vehicle charging points shall be retained for the lifetime of the development unless they need to be replaced in which case the replacement charging point(s) shall be of the same specification or a higher specification in terms of charging performance.
- 16) The development hereby approved shall not be occupied until a residential welcome pack promoting sustainable forms of access to the development has been submitted to and approved in writing by the Local Planning Authority. The approved pack shall be provided to each resident at the point of occupation.
- 17) Prior to the occupation of any part 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 by the Local Planning Authority as part of the details required by this condition.

- 18) If contamination is found at any time when carrying out the approved development that was not previously identified, it must be reported immediately to the Local Planning Authority. The applicant is advised to immediately seek the advice of an independent geo-environmental consultant experienced in contaminated land risk assessment, including intrusive investigations and remediation. No further works should be undertaken in the areas of suspected contamination, other than that work required to be carried out as part of an approved remediation scheme, unless otherwise agreed by the Local Planning Authority, until requirements 1 to 4 below have been complied with:
1. Detailed site investigation and risk assessment must be undertaken by competent persons in accordance with the Environment Agency's 'Land Contamination: Risk Management' guidance and a written report of the findings produced. The risk assessment must be designed to assess the nature and extent of suspected contamination and approved by the Local Planning Authority prior to any further development taking place.
 2. Where identified as necessary, a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to identified receptors must be prepared and is subject to the approval of the Local Planning Authority in advance of undertaking. The remediation scheme must ensure that the site will not qualify as Contaminated Land under Part 2A Environmental Protection Act 1990 in relation to the intended use of the land after remediation.
 3. The approved remediation scheme must be carried out in accordance with its terms prior to the re-commencement of any site works in the areas of suspected contamination, other than that work required to carry out remediation.
 4. Following completion of measures identified in the approved remediation scheme a verification report that demonstrates the effectiveness of the remediation carried out must be produced and is subject to the approval of the Local Planning Authority prior to the occupation of any buildings on site.
- 19) Before the development hereby permitted is first occupied/used, details of any external lighting to be provided in association with the development shall be submitted to and approved in writing by the Local Planning Authority. The details shall include times when the external lighting will not be switched on. Only external lighting in accordance with approved details shall be provided on the application site. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting that Order with or without modification) there shall be no other external lighting provided on the application site.

APPEARANCES

FOR THE APPELLANT:

Sian Griffiths	RCA Regeneration Ltd
Liam Good	Platform Housing

Stuart Dudley

SJD Architects & Developments Ltd

FOR THE LOCAL PLANNING AUTHORITY:

Cllr Tony Rowley Wychavon District Council

John Teesdale Wychavon District Council

Emma Worley Wychavon District Council

Laura Marshall Wychavon District Council

Denise Duggan Wychavon District Council

INTERESTED PERSONS:

Ruth Dawson Jones Chair of Crowle Parish Council

James Puzey Froxmere Housing Group

Dr Peter King CPRE

Cllr Margaret Rowley Ward Councillor