



Appeal Decision

Site visit made on 7 September 2022

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 September 2022

Appeal Ref: APP/H1840/W/22/3297867

Land to the South of Walcot Lane, Drakes Broughton WR10 2AJ

- 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 Lee Juliff of Juliff Homes Ltd against the decision of Wychavon District Council.
 - The application Ref 21/01668/FUL, dated 2 July 2021, was refused by notice dated 3 February 2022.
 - The development proposed is erection of 12no dwellings with new access.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. The Council highlight a significant change in circumstances since the Council's decision. The Council advise that they are no longer able to demonstrate a deliverable five-year housing land supply, which I will consider as part of my decision.

Main Issues

3. The main issues are:
 - Whether the appeal site is an appropriate location for new housing having regard to the local housing strategy;
 - Whether the proposal would be an unsustainable form of development with regard to accessibility to local services and facilities;
 - Flood risk; and
 - Whether the financial and affordable housing contributions are required to make the proposal acceptable in planning terms

Reasons

Housing strategy

4. Policy SWDP2 of the South Worcestershire Development Plan (2016) (SWDP) sets out the development strategy for new development in the district. Part C states that land beyond any development boundary will be considered to be located within open countryside. Development in the countryside will be strictly controlled to development specifically permitted by other SWDP policies. The policy does not support the provision of market housing in countryside locations.

5. Policy DBWP3 of the Drakes Broughton and Wadborough with Pirton Neighbourhood Plan (2017) (NP) limits development outside of the defined settlement boundary to a number of specified types, which does not include market housing.
6. The application site comprises a parcel of agricultural land located on the southern side of Walcot Lane. It sits between a recently completed residential development and the village hall and recreation ground. Whilst the village envelope extends beyond the site and it adjoins and sits opposite existing housing, it is nonetheless located outside the settlement boundary of Drakes Broughton. Therefore, new development outside of existing boundaries will be considered to be located in the countryside and this proposal has not been presented on the basis of any need for a countryside location.
7. The Council state that the proposed housing mix should provide more 3-bedroom units and fewer 4 and 4+ bedroom units than proposed. However, the appellant contends that the proposal responds to advice from the Council's Affordable Housing Officer and reflects local needs.
8. The Strategic Housing Market Assessment (SHMA) does not have the standing of planning policy. However, in my view it provides an up to date and robust analysis of housing needs in the Council area and I attach significant weight to its findings. Whilst the appellant contends that the mix proposed was informed by the SHMA as well as parish and local developer assessments I have not been provided with any compelling evidence to substantiate this claim. In my judgement the appellant's case is not so compelling so as to lead me to depart from the SHMA's findings in relation to local housing need.
9. Drakes Broughton is classed as a Category 2 Village and is a suitable location for new development and benefits from a number of services and facilities to meet residents' day to day needs. These services and facilities are directly accessible from the site by foot and motor vehicle. However, as the development would be located beyond the settlement boundary of the village it would not be an appropriate location for new housing contrary to SWDP Policy 2 and NP Policy DBWP3.
10. Whilst the proposal would deliver 30% affordable housing, it would not reflect local housing need, particularly with regard to open market housing undermining the housing strategy for the area. This would be contrary to SWDP Policy 14 which, amongst other things, requires developments to contain a mix of types and sizes of market housing reflecting the SHMA and/or local assessments.
11. I note the council have referred to Policy DBWP1 in the first reason for refusal, however, I find that with specific regard to this appeal I have given it negligible weight in coming to my decision.

Accessibility to services and facilities

12. I acknowledge that the proposed development would not provide a direct link to the Public Right of Way that extends along the southern boundary of the site and the neighbouring recreation ground. However, the appellant is proposing a footpath link onto the southern side of Walcot Lane connecting the site to the village.

13. Whilst pedestrian and cycle links to the wider area would be desirable, I am not persuaded that the absence of these links would discourage or unacceptably undermine the ability of future occupiers to move through the village or access local services and facilities. In any event the appellant indicates that they are amenable to providing the links.
14. As such, I conclude that the proposed development would accord with SWDP Policy 21 and NP Policy DBWP9 which, amongst other things, require design and layouts to maximise opportunities for pedestrian and cycle linkages to the surrounding area and local services and enhance the use of non-car and public transport use.

Flood risk

15. The Council's Drainage Engineer has indicated that the site is subject to surface water issues resulting from the neighbouring residential development. This is also supported by anecdotal evidence from local residents.
16. Paragraph 167 of the National Planning Policy Framework (the Framework) states that where appropriate, applications should be supported by a site-specific flood-risk assessment. Development should only be allowed in areas at risk of flooding where, in the light of this assessment it can be demonstrated that the most vulnerable development is located in areas of lowest flood risk; the development is appropriately flood resistant and resilient; it incorporates sustainable drainage systems; any residual risk can be safely managed; and safe access and escape routes are included where appropriate.
17. I acknowledge that the appellant is proposing to use a Sustainable Urban Drainage system to mitigate surface water issues and an area of green space. However, flood risk is a technical field and one that is increasingly important as the effects of climate change become more apparent. For this reason, I give significant weight to the comments made by the Council's Drainage Engineer and the Lead Local Flood Authority, for that matter. In my view, this is a matter that cannot be addressed through the imposition of conditions.
18. In the absence of any evidence to demonstrate that the site is not susceptible to flooding or that any flood risk could be appropriately managed, I cannot conclude the proposal represents an acceptable form of development having regard to its location.
19. Thus, the proposal fails to accord with SWDP Policies 28 and 29 which, amongst other things, seek to minimise the impacts of and from all forms of flood risk and that site drainage and runoff will be managed in a sustainable and co-ordinated way.

Planning obligations

20. The Council submit that a planning obligation is required as the mechanism by which to secure affordable housing and financial contributions towards community transport, sports pitches and open space.
21. I am satisfied that the contributions would satisfy the tests for planning obligations set out in Regulation 122 of the Community Infrastructure Levy Regulations (2010). Despite the appellant's willingness to provide one, the necessary planning obligation has not been provided and thus there is no

mechanism by which to secure the necessary contributions. The contributions cannot be secured by condition.

22. Consequently, the proposal fails to meet the requirements of SWDP Policies 1, 4, 7, 15, 39 and 62, the Council's Developer Contributions Supplementary Planning Document and Affordable Housing Supplementary Planning Document which, amongst other things, require planning obligations to provide funding to mitigate negative impacts relating to specific development and to contribute towards the provision of infrastructure needed to support it, including sustainable transport infrastructure; affordable housing; green space and outdoor community uses.

Planning Balance

23. The Council accepts that they cannot demonstrate a deliverable five year supply of housing land as required by paragraph 74 of the Framework. In such instances Paragraph 11 d) sets out that the most important development policies for determining the application are out-of-date 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.
24. The construction of open market and affordable houses would make a reasonable contribution towards housing supply in the area. Although the site is located beyond the settlement boundary it would nonetheless be well related to existing built form, rather than isolated. It would be well contained and read as part of the village rather than the surrounding countryside. It is also in a location within a reasonable distance of a range of day-to-day services. Future occupiers would be able to reach these on foot, providing them with transport choice and an alternative to car use. As such, I do not find the location of the proposed development unacceptable.
25. The construction of 14 dwellings would provide jobs albeit this would be largely short term limited to the construction phase. Future occupiers would help to maintain or enhance the vitality of services and facilities in the village.
26. The proposed development would have an appropriate density, constructed from sympathetic materials and incorporating green technologies. It would also include a dedicated access road and green space.
27. The provision of housing, and affordable housing in particular, and the contribution that future occupiers would make to Drakes Broughton are factors in favour of the proposal.
28. On the other hand, I have found that the proposed development would not reflect local housing need, particularly with regard to open market housing undermining the housing strategy for the area and would lead to a risk of surface water flooding. Furthermore, the absence of a planning obligation and the adverse impact of failing to provide contributions towards community transport, sports pitches, open space and adequate provision of affordable housing would be significant.
29. Overall, I find that the adverse impacts of the proposed development would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework when taken as a whole. Consequently, the presumption in favour of sustainable development does not apply and I have

no reason to take a decision other than in accordance with the development plan.

Conclusion

30. For the reasons set out above the appeal does not succeed.

B Thandi

INSPECTOR

Richborough Estates