



Appeal Decision

Site visit made on 8 March 2022

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 April 2022

Appeal Ref: APP/R1845/W/21/3284761

Orchard House, Cleobury Road, Far Forest, Kidderminster DY14 9TE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Carl Frascina against the decision of Wyre Forest District Council.
 - The application Ref 21/0565/OUT, dated 18 May 2021, was refused by notice dated 16 July 2021.
 - The development proposed is the erection of 4no. self or custom build dwellings with access from A4117.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 4no. self or custom build dwellings with access from A4117 at Orchard House, Cleobury Road, Far Forest, Kidderminster DY14 9TE in accordance with the application, Ref 21/0565/OUT, dated 18 May 2021, subject to the conditions set out in the schedule to this Decision.

Procedural Matters

2. The application is in outline with access to be considered at this stage. I have determined the appeal on this basis.
3. An illustrative layout accompanies the application and I have paid regard to this layout in so far as assessing the principle of development in land use terms.
4. The emerging Wyre Forest Local Plan has undergone examination but is not yet adopted. Whilst there is reference to emerging policies in the appeal submissions, these do not materially alter the case of the Council. Similarly, the appellant refers to emerging policies but does not solely rely on them in support of their own case. Therefore, I have determined the appeal on the basis of the policies which form the current development plan.
5. A unilateral undertaking (UU) pursuant to section 106 of the Town and Country Planning Act 1990 (as amended) was submitted as part of the appeal. I return to this later.

Main Issues

6. The main issues are:
 - Whether the appeal site is an appropriate location for new housing having regard to a local planning policies; and

- The effect of the proposed development upon the character and appearance of the area.

Reasons

Location of housing

7. Part of the appeal site is located beyond the defined settlement boundary of Far Forest. The site forms part of the rear garden of Orchard House and is largely open and undeveloped, but it is enclosed by built form including neighbouring dwellings and a school located beyond the rear boundary.
8. Policy SAL.DPL2 of the Wyre Forest Site Allocations and Policies Local Plan (2013) (LP) relates to rural housing. It sets out that housing in such areas will not be permitted unless in exceptional circumstances including where it meets an identified local housing need.
9. The Council advise that a housing needs survey undertaken by Rock Parish Council in 2019 demonstrates there is no local requirement for the proposed development. Notwithstanding its content the survey was undertaken prior to the onset of the pandemic, and it is likely that housing needs in the area have changed during this period. Furthermore, given the low response rate to the survey I am not satisfied it provides a robust analysis of local housing need. I therefore give it very limited weight in coming to my decision.
10. Whilst I give very limited weight to the Rock Parish Housing Needs Survey in terms of housing need part of the site is located beyond the settlement boundary of Far Forest. Therefore, there would be some conflict with LP Policy SAL.DLP2 which supports new development in appropriate locations.
11. I note the council have referred to Policy CP04 of the Wyre Forest Core Strategy (2010) (CS) 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.

Character and appearance

12. The supporting text to Policy SAL.DP2 sets out that new housing in rural areas will be limited in order to safeguard the district's landscape character and to promote the regeneration of urban areas.
13. Far Forest is a dispersed settlement with linear development along the A4117 and denser development located to the north of the site which includes short side roads and cul de sacs leading off New Forest Close and Oakleaf Rise. Properties in Far Forest vary considerably in terms of scale, design, plot sizes and set back from the highway resulting in a diverse character.
14. I acknowledge that the site is largely open, but it is surrounded by existing built form and there is no evidence before me to suggest that it makes an important contribution to the rural setting of the village.
15. The proposed development would be modest in scale read against a backdrop of existing development. It would be relatively well contained with limited localised views from nearby properties. The proposed development would not unacceptably alter the established layout or character of the village. Nor would the proposed development encroach into open countryside.

16. Despite no direct road frontage and being sited behind existing properties, I am satisfied that the proposed development would successfully integrate into the village and not result in harm to the surrounding countryside, or the character of the village given its varied nature.
17. There would be a degree of urbanisation and a greater depth of built form as a result of the development. However, there is no reason to suggest that an appropriate scale, design and layout could not be secured at reserved matters stage that reflects the surrounding context.
18. I conclude that the proposed development would not adversely affect the character and appearance of the area. It would accord with Policy CP11 of the CS and Policy SAL.UP7 of the LP which, amongst other things, requires new development to sensitively connect to surrounding streets, spaces and communities and are of the highest design quality.
19. It would also accord with Paragraph 130 of the National Planning Policy Framework (the Framework) which, amongst other things, seeks to ensure that developments add to the overall quality of the area and are sympathetic to local character and history.

Other considerations

20. The Self Build and Custom Housebuilding Act 2015 requires local planning authorities to establish and publicise a local register of custom-builders who wish to acquire suitable land to build their own home. The Housing and Planning Act 2016 sets out that local planning authorities have a duty to grant planning permission in respect of enough serviced plots of land to meet the demand for self-build and custom housebuilding in the authority's area arising in each base period. Authorities must have regard to the Register when carrying out their planning functions, including making decisions on planning applications.
21. The Framework identifies people wishing to commission or build their own homes as a distinct section of the community, for which the size, type and tenure of housing needed should be assessed and reflected in planning policies.
22. The Council advise that there are 45 applicants on the local Register and content that 52 permissions have been granted for developments that would be suitable for custom or self-build developments thus meeting current demand. The Council also envisage that plots will come forward on allocated sites in the emerging local plan.
23. Despite this, and as the appellant states, there is no substantive evidence before me to demonstrate that the permissions already granted are specifically restricted to serviced self-build and custom building plots. Therefore, there is uncertainty that the Council are meeting the demand for such plots. In addition, there is no information before me as to the numbers of plots that are expected to be achieved through allocated sites or their prospective time scales.
24. As such, based on the evidence before me, I am not satisfied that the Council are meeting their duty to provide self-build and custom building provision in the area.

Planning balance

25. The Council's position statement from April 2021 indicates a 7.12-year supply of housing land. This is not challenged by the appellant. Therefore, paragraph 11 d) is not engaged by this particular factor.
26. Notwithstanding the above, there is no relevant development plan policies relating to self-build and custom building housing. Therefore, paragraph 11 d) of the Framework is engaged and permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
27. The proposed development of up to 4 dwellings would make a contribution towards the district's housing supply meeting a local need for self-build and custom building plots. In this regard it would accord with Paragraph 62 of the Framework through providing housing for different groups in the community. It would also lead to social and economic benefits during the construction phase.
28. Although partly outside the settlement boundary, it is in a location that is within a reasonable distance of a range of day-to-day services. Future occupants would be able to reach these on foot, providing them with transport choice and not an over-reliance on a car. There would be some positive contribution to the vitality of Far Forest as a rural community, thus in this regard it would accord with Paragraph 79 of the Framework.
29. The proposed development would be well contained and related to the existing built form and would not encroach into the surrounding countryside. As such, I find that the proposed development would protect the surrounding landscape in accordance with Paragraph 174 b) of the Framework.
30. The appellant has submitted a signed and dated UU as the mechanism by which to secure the proposed development provides self-build and custom building plots for applicant's on the Council's Register. I am satisfied that the UU serves to ensure that the development would provide such plots.
31. Overall, these benefits would significantly and demonstrably outweigh the minor harm that I have identified in relation to its location beyond the settlement of Far Forest when assessed against the policies in the Framework when taken as a whole. Therefore, the proposal benefits from the presumption in favour of sustainable development.
32. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that any determination must be taken in accordance with the development plan unless material considerations indicate otherwise. In this case the presumption in favour of sustainable development is a material consideration which outweighs the conflict with the development plan. A decision should thus be taken otherwise than in accordance with the development plan.

Conditions

33. I have considered the imposition of conditions in accordance with the Framework and Planning Practice Guidance. I have undertaken some rationalisation of the conditions proposed by the Council in the interests of precision and clarity.

34. Conditions relating to the submission of reserved matters and the time limits associated with this have been imposed. I have imposed a condition specifying the relevant drawings as this provide certainty. In order to ensure satisfactory appearance conditions requiring the development to be carried out in accordance with the arboricultural report and for a landscape management plan have been imposed.
35. Conditions for the access and parking turning areas to be provided have been imposed in the interests of highway safety.
36. Conditions requiring at least 10% of the energy supply of the development to be from renewable or low carbon energy sources, surface water drainage scheme and the infrastructure for electric vehicle charging points have been imposed in the interests of achieving sustainable development.
37. The Council has suggested a condition limiting the development to a maximum of 4 dwellings. However, I do not consider it necessary to impose it.
38. A condition requiring the details of the external surfaces, hard and soft landscaping, boundary treatments and finished floor levels is not necessary as this information would be provided as part of the submission of the reserved matters.
39. Conditions for the full details of tree protection and landscaping to the front of the site are not necessary as adequate tree protection details have been outlined in the appellant's arboricultural report and landscaping would form part of the reserved matters.
40. The Council has also suggested a condition for the development to connect to superfast broadband. However, ensuring superfast broadband is beyond the gift of the appellant and is an unreasonable request and I have not imposed it.
41. Water consumption reduction matters are covered by different legislation ie Building Regulations and thus I have not imposed the condition suggested as it is not necessary.
42. The Council has suggested conditions for a biodiversity mitigation and enhancement strategy for protected species and bat friendly lighting. However, no clear justification has been provided for the conditions given the conclusions of the appellant's baseline site ecological audit. As such these conditions are not necessary and have not been imposed.
43. Taking into consideration the development is for individual dwellings it is likely that future occupants would keep their cycles within their properties or gardens therefore I consider the condition is not necessary or reasonable.

Conclusion

44. For the reasons set out above the appeal succeeds.

B Thandi

INSPECTOR

Schedule of conditions

- 1) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 2) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 3) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan and Proposed Development Drawing Number 3923-01C but only in respect of those matters not reserved for later approval.
- 4) Details of the appearance, landscaping, layout, and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 5) Before any above ground works commence full details of the surface water drainage scheme for the site shall be submitted to and approved in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details before the development is completed.
- 6) No development above ground level shall commence until details of the means by which the development will incorporate energy from renewable or low carbon sources equivalent to at least 10% of predicted energy requirements have been submitted to and approved in writing by the local planning authority. The scheme shall be implemented as per the approved details prior to first occupation of the development and shall thereafter be retained for the life of the development.
- 7) A landscape management plan, including long term design objectives, management responsibilities and maintenance schedules, other than privately owned domestic gardens, shall be submitted to and approved in writing by the local planning authority prior to the first occupation of the development. The development shall be carried out in accordance with the approved scheme.
- 8) The development hereby approved shall not be occupied until the access shown on Drawing No 3923-01C has been provided and adequately surfaced.
- 9) The development hereby approved shall not be occupied until the access driveway, turning and parking areas, have been provided in accordance with County standards. These areas shall thereafter be retained for their specific purposes at all times.
- 10) The development shall be carried out in accordance with the advice, conclusions and recommendations as set out within the submitted BS5837 Arboricultural Report.

- 11) Appropriate cabling and an outside electrical socket must be supplied for each property to enable ease of installation of an electric vehicle charging point.