



Appeal Decisions

Site visit made on 3 September 2019

by **E Griffin LLB Hons**

an Inspector appointed by the Secretary of State

Decision date: 15 November 2019

Appeal Ref: APP/H1840/W/19/3226263

Land North of Pulley Lane, Droitwich Spa, Worcestershire WR9 7JL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant permission in principle.
 - The appeal is made by H2 Land Ltd against the decision of Wychavon District Council.
 - The application Ref 19/00328/PIP dated 6 February 2019 was refused by notice dated 21 March 2019.
 - The development proposed is for permission in principle for an entry level exception scheme in accordance with Paragraph 71 of the National Planning Policy Framework comprising the erection of 9 no entry level (starter homes).
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by H2 Land Ltd against Wychavon District Council. This application is the subject of a separate Decision.

Procedural Matter

3. The appeal proposal is for permission in principle, as provided for in the Town and Country Planning (Permission in Principle) Order 2017. The Planning Practice Guidance (PPG) advises that this is an alternative way of obtaining planning permission for housing-led development which separates the consideration of matters of principle from the technical detail. Planning permission does not exist unless both the permission in principle and the technical details are approved. This appeal relates to the first of these two stages.
4. The PPG advises that the scope of permission in principle applications is limited to location, land use and amount of development. However, the appeal proposal includes the details of the type of housing as part of the first stage process rather than the second detailed consent stage where conditions could have been imposed in the event of permission in principle being granted. In any event, I have assessed the appeal proposal on the basis of the evidence before me.

Main Issue

5. The main issue is therefore whether the appeal proposal would be a suitable location for housing having regard to local and national policies.

Reasons

6. The appeal site is currently part of a field on Pulley Lane which is close to a crossroads. The crossroads marks the end of Pulley Lane as it continues as Newland Lane and Newland Common Road and Newland Road form the other road running through the crossroads. The position of the appeal site means that it has boundaries with Newland Road and Pulley Lane.
7. There is a cluster of dwellings at the crossroads with Old Croft on the corner of Pulley Lane and Newland Road sharing a boundary with the appeal site. Although the appellant refers to ribbon development along Pulley Lane and Newland Lane, the built development is in my view much more sporadic with limited built development in the immediate vicinity of the appeal.

Paragraph 71 of the Framework

8. Although the appeal proposal is for a permission in principle, the appeal proposal is specifically for 9 entry level starter homes as provided for in Paragraph 71 of National Planning Policy Framework (the Framework). Paragraph 71 states that Councils should support entry level exception sites suitable for first time buyers unless the need for such homes is already being met. It further states that sites should be on land which is not already allocated for housing and should a) comprise entry level homes that offer one or more types of affordable housing as defined in Annex 2 of the Framework and b) be adjacent to existing settlements (as well as meeting other criteria in paragraph b). In order to fall within Paragraph 71 of the Framework, a proposal would need to satisfy both Paragraph 71a) and 71b).
9. Dealing with location, to fall within the criteria, the appeal site would need to be adjacent to an existing settlement. "Adjacent" given its ordinary meaning is adjoining something else as in next to. The Council has provided a plan which shows both the extent of the Droitwich Urban Extension(SWDP 49/2) and the position of the appeal site. The appellant considers that the development boundary is not a determining factor in assessing whether or not the appeal site is adjacent to a settlement and further that the physical relationship between the existing built form and the position of the appeal site is relevant and I do not disagree. However, the appeal site is to the south of the areas of built up development of Droitwich and has limited development surrounding it consisting of a cluster of dwellings. It is not in my view adjacent to an existing settlement.
10. The inclusion of the appeal site within a larger site as part of the Council's "Call for Sites" consultation does not bring the appeal site within the criteria of Paragraph 71b). Whether or not the appeal site is isolated within the terms of Paragraph 78 of the Framework is not a consideration that would bring the appeal proposal within the remit of Paragraph 71 that is specifically relied upon by the appellant. Similarly, whilst I observed at my site visit that new development is being constructed along Newland Lane, I have to consider this appeal upon its own merits.
11. The appellant considers that the relevant settlement is Droitwich and that the appeal site sits comfortably within the urban fringe and must therefore be adjacent to an existing settlement. The appellant is of the view that the quality and route between the appeal site and the settlement are relevant and that providing sustainable locations is the underlying purpose of the wording.

However, there is no separate sustainability requirement within the criteria. The Council could not, for example, have refused an application on sustainability grounds if it met the requirements of Paragraph 71a) and 71b). Similarly, an association with the edge of the town of Droitwich Spa and the appeal site not forming part of any other hamlet is not sufficient to fall within Paragraph 71b). I am therefore not persuaded that the issues raised by the appellant bring the appeal proposal within the remit of being adjacent to an existing settlement.

12. Irrespective of whether or not the criteria referring to entry level homes under Paragraph 71a) is met, the appeal proposal cannot fall within Paragraph 71. I therefore do find that the appeal proposal would not fall within Paragraph 71 of the Framework as it is not adjacent to an existing settlement.

SWDP

13. As well as consideration of Paragraph 71 of the Framework, the parties have addressed the provisions of the development plan which is the starting point for the determination of any planning application. Policy SWDP2 of the South Worcestershire Development Plan establishes a settlement hierarchy which, amongst other things, seeks to safeguard development within the open countryside. Policy SWDP2C defines land beyond any development boundary as being in open countryside. The appeal site is outside any development boundary and in open countryside. The policy then states that in the open countryside, development will be strictly controlled and will be limited to a number of exceptions which are further defined in other policies. The parties agree that the appeal proposal does not fall within any of the exceptions listed in Policy SWDP2C.
14. The Council's view is that as the appeal proposal does not fall within any of the exceptions as development in open countryside, it would conflict with the Policy SWDP2. It also considers that there is a policy dealing with affordable housing generally although I have limited details of it. The appellant considers that as there is no relevant development plan policy for entry level schemes, planning permission should be granted unless policies in the Framework suggest otherwise. However, as I have found that the appeal proposal does not comply with the requirements of Paragraph 71 of the Framework, any presumption in favour of granting planning permission does not apply.
15. Alternatively, the appellant considers that a technical breach of Policy SWDP2C is outweighed by other material considerations. The material considerations include policy support for entry level exception schemes on sites adjacent to existing settlements, high demand and limited supply for entry level homes, the provision of affordable housing in a sustainable location where there is a persistent undersupply of affordable housing, economic benefits and the lack of other material harm. However, with regard to the provision of entry level homes and affordable housing, I have found that the appeal proposal would not fall within the criteria contained in Paragraph 71b) of the Framework.
16. I can attach only limited weight to any undersupply of entry level homes as the appeal proposal does not comply with Paragraph 71 of the Framework. Economic benefits arising from 9 homes would be modest. I have limited information about the lack of material harm of the appeal proposal as the first stage of permission in principle considers only the location, the amount of development and the land use. I do not therefore agree with the appellant that

a breach of the development plan would be outweighed by other material considerations.

Other matters

17. The Council has referred to a decision¹ which related to an appeal proposal on Newland Lane where the appeal was dismissed. However, each application has to be considered on its own merits and I agree with the appellant and do not find the appeal decision to be comparable to this appeal. In contrast to the appeal decision at Newland Lane, this appeal relates to a permission in principle where the matters that can be taken into consideration are more limited and issues such as character and appearance and whether there is harm to the intrinsic character and beauty of the countryside are not within my remit.

Conclusion

18. In conclusion, the appeal proposal would be contrary to policy SWDP2 which seeks to safeguard development within the open countryside subject to exceptions. I have found that the appeal proposal does not fall within the exception relied upon by the appellant namely Paragraph 71 of the Framework. For the reasons given, the appeal is dismissed.

E. Griffin

INSPECTOR

¹ APP/H1840/W/18/3197386