



Appeal Decision

Hearing held on 6 May 2011

Site visit made on 6 May 2011

by Andrew Jeyes BSc DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 8 June 2011

Appeal Ref: APP/R1845/A/11/2143452

**Castle Ash, Birmingham Road, Blakedown, Kidderminster,
Worcestershire DY10 3JE**

- 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 Banner Homes Midlands Ltd against the decision of Wyre Forest District Council.
 - The application Ref 10/0428/FULL, dated 21 July 2010, was refused by notice dated 9 December 2010.
 - The development proposed is to construct new access road and erection of four detached houses together with new garage for existing house.
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Decision

1. I dismiss the appeal.

Procedural Matter

2. The refusal notice, amongst other policies, referred to saved Policies NR.1 and D.3 of the Wyre Forest District Local Plan 2004 [LP]. These policies were superseded by Policies DS01 and CP11 of the Wyre Forest District Local Development Framework Core Strategy [CS] on its adoption in December 2010.

Main Issues

3. The main issues are whether the proposal meets the aims of policies that seek to direct development to previously developed land within the district and the effect on the character and appearance of the area.

Reasoning

Background

4. The appeal site forms part of the large rear garden of Castle Ash that slopes down from Birmingham Road towards Swan Pool, an area of woodland and water that is a Special Wildlife Site within the Green Belt. The whole of the garden, together with adjoining properties, is within the settlement boundary of Blakedown as defined in the Local Plan.

Development on Previously Developed Land

5. Saved LP Policy H.2 allows development within allocated residential areas provided that the site comprises of previously developed land. CS Policy DS01, which includes a settlement hierarchy, indicates a concentration of new development on previously developed land [called brownfield within the CS] within urban areas. The overall aim is to promote regeneration of the main towns of Kidderminster and Stourport-on-Severn and assisting with the prevention of out migration from the West Midlands conurbation.

- Within rural settlements, which include Blakedown, development should be on brownfield sites and housing should meet local needs.
6. The revised version of PPS3¹ no longer includes residential gardens within the definition of previously developed land, but this in itself does not preclude all development of garden land. The appellant however, considers that the revisions to PPS3 do not apply as the 'Jargon Guide' attached to the Core Strategy, adopted after the revisions to PPS3, contains its own definition of previously developed land/brownfield, which does not exclude gardens and includes "developed land within the settlement boundary where further intensification of use is considered acceptable". In my view, this definition does not override PPS3, which specifically excludes gardens from being classed as previously developed land and the site cannot therefore be considered as "developed land within the settlement boundary".
 7. The appeal scheme therefore fails to meet the Core Strategy and Local Plan requirement that housing in Blakedown should be on previously developed or brownfield land. Housing provision up to 2026, based on the requirements of the Regional Spatial Strategy for the West Midlands, can be met using previously developed land only and there is a current housing land supply in excess of five years.
 8. In addition, the Core Strategy indicates that any housing in Blakedown should meet local needs. The appellant points to the Parish Plan as identifying a need for larger executive housing and considers that there is no need for any mechanism to restrict occupation to local people. However, the Parish Plan indicates an over-provision of large family houses and a lack of provision and continuing need for smaller and affordable housing to cater for young people and the elderly who wish to stay within their community. The Parish Plan indicates that the results of a housing needs survey that has been undertaken to indicate the extent of need are awaited.
 9. The proposed housing would not provide for these indicated general needs and the lack of any mechanism to restrict occupation to local people would not achieve the aims of CS Policy DS01 to restrict out migration from the nearby conurbation and encourage the regeneration of local urban areas. Whilst Blakedown exhibits many aspects of a sustainable community, it critically lacks any significant employment opportunities, so that it functions as a commuter village. The lack of a local needs restriction would tend to reinforce this aspect.
 10. The appellant has referred to an appeal decision in South Croydon² that permitted housing on an area of garden land. However, each decision must be considered on its own merits, and there is no indication in that case that development plan policy restricted new housing development to previously developed land. Previous appeal decisions³ in Wyre Forest District have supported the restriction of new housing development to previously developed land.
 11. For the above reasons, the proposal would not comply with CS Policy DS01 and saved LP Policy H.2 that seek to focus development on main towns in the area and prevent migration from the conurbation and direct development to previously developed land within the district.

Character and Appearance

12. The application site is bounded on its eastern side by the rear gardens of properties fronting Forge Lane and on its western side by 18 Birmingham Road. At the southern end, the site backs onto Swan Pool, an area of mature woodland and water. The proposal is for a private drive along the western side of Castle Ash from a new access, with four large houses at the rear of Castle Ash and the Forge Road properties.

¹ Planning Policy Statement 3: *Housing*

² APP/L5240/A/0/2117977: *Rear of 42 to 46 Crossways, South Croydon, Surrey*

³ APP/R1845/A/10/2138592: *Oxbine, Callow Hill, Rock, Kidderminster*; and
APP/R1845/A/10/2126638: *Land adjacent to 62 The Racks, Barkhill, Bewdley*

13. This rear garden area, together with adjoining long and extensive gardens to the west, forms a large area with no substantial buildings. Whilst gardens, the substantial trees and grassed areas convey a close relationship between this area and the woodland behind and forms a clear break between buildings associated with the settlement and the open countryside. The proposed four houses, which would step down the slope of the garden, would intrude into the open character of this area. There would be limited public visibility of the houses, with restricted views in winter from the bridleway that runs from Halfshire Lane to the west, but the houses would be prominent in the outlook from the rear of existing houses and gardens of properties fronting the southern end of Forge Lane. In this respect, they would intrude into the character and appearance of this part of the area.
14. The proposed houses would represent a form of backland development. Whilst the Council say this is not normal for Blakedown as most properties have a conventional frontage relationship to a road, the three houses off St James Court on the opposite side of Birmingham Road and housing adjacent to the village hall on Belbroughton Road exhibit urban backland characteristics within the vicinity of the site. In addition, the length of driveway and the distance of the proposed houses from the road, would give the impression of a small private cul-de-sac as opposed to the normal urban appearance of backland development. I do not therefore consider that the backland nature of the proposal would conflict with the character and appearance of other development within the vicinity.
15. Whilst I do not consider that the proposal would conflict with local character and appearance in respect of its backland nature, this does not outweigh my conclusions in respect of the harm that would arise to the open character of the area through introducing four houses and associated garages and driveways onto an open large back garden area. This would conflict with CS Policy CP11 and with guidance in adopted Supplementary Planning Guidance: *Design Quality*, which carries considerable weight. These aim to ensure quality design that increases the sense of local identity and community by strengthening the importance of existing assets.

Other Matters

16. Local residents have raised issues concerning highway safety relating to Birmingham Road, the A456, and the proposed new access. The Highway Authority is satisfied with the proposals subject to conditions including visibility splays and a widening of the footway. Subject to such conditions, I do not consider that an access serving an additional four houses would harm highway safety. The Council consider that the living conditions of nearby residents would not be unacceptably harmed. The access drive would be at the same level as ground adjacent to 18 Birmingham Road and separated from the boundary by a line of landscaping and an acoustic fence. Taking account of the length of gardens and the disposition of the proposed houses and driveway, I also consider that there would no unacceptable impact on residents' living conditions. In addition, the proposed development of the site would not comprise the nearby Green Belt.

Conclusions

17. The proposal would not comply with policies that seek to direct development to previously developed land within the district, focus development on main towns in the area and prevent migration from the conurbation. It would also cause harm to the character and appearance of the area through introducing substantial building onto this large open rear garden area. For these reasons and considering all other matters, I dismiss the appeal.

Andrew Jeyes

INSPECTOR

