The Planning Inspectorate

Appeal Decision

Site visit made on 7 December 2015

by G P Jones BSc(Hons) MA MRTPI

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

Decision date: 4 February 2016

Appeal Ref: APP/J1860/A/14/2227378
Malvern Caravans, Malvern Road, Powick, Worcestershire WR2 4SN

- 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 Nick Jones, Malvern Caravans against the decision of Malvern Hills District Council.
- The application Ref 13/01106/OUT, dated 19 August 2013, was refused by notice dated 7 July 2014.
- The development proposed is an outline application for the development of 6 dwellings (2 pairs of semi detached and 2 pairs of detached) and associated development.
- This decision supersedes that issued on 17 February 2015. That decision on the appeal was quashed by Order of the High Court.

Decision

1. The appeal is allowed and planning permission is granted for an outline application for the development of 6 dwellings (2 pairs of semi detached and 2 pairs of detached) and associated development at Malvern Caravans, Malvern Road, Powick, Worcestershire WR2 4SN in accordance with the terms of the application, Ref 13/01106/OUT, dated 19 August 2013, and the plans submitted with it, subject to the conditions set out in the attached schedule.

Preliminary matter

2. The appellant has submitted a Unilateral Undertaking (UU), dated 13 February 2015, which provides financial contributions towards open space provision and the provision of education. The UU also seeks to provide a single intermediate affordable housing unit, that would represent the 20% provision as required in emerging policy SWDP 15 of the South Worcestershire Development Plan (SWDP). The Council considers that a 20% provision for affordable housing to be appropriate in this case, and I concur with this view.

3. I consider that the measures in the submitted UU are necessary, related directly to the development and fairly related in scale and kind. As such they would accord with saved Policy DS18 of the Malvern Hills District Local Plan (LP), adopted 2006, that relates to planning obligations and their use, and the provisions of Regulation 122 of the Community Infrastructure Levy Regulations 2010 and the tests for planning obligations set out in the National Planning Policy Framework (the Framework).

Main Issue

4. The main issue is whether the proposal would accord with Local Plan policies and national guidance that seeks to direct development to appropriate sustainable locations and, if not, whether any policy conflict would be overcome by the benefits of the proposed development.

Reasons

Policy background

5. Applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. Paragraph 49 of the Framework states that housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.

6. The Council acknowledges that it cannot demonstrate a five year supply of deliverable housing sites, and as such relevant policies for the supply of housing should not be considered up-to-date. This diminishes the weight that I attach to local policies that seek to prevent residential development outside defined settlement boundaries. Furthermore, the Council recognises that the sub-area housing requirements that are detailed in the emerging South Worcestershire Development Plan (SWDP) can only be afforded significant weight upon receipt of the Inspector's final report. I concur with this view and due its emerging status I attach limited weight to SWDP Policies SWDP2 and SWDP21 that were referenced in the Council's reason for refusal.

7. Paragraph 49 of the Framework also needs to be considered within the context of the final bullet point of paragraph 14 of the Framework which advises that where the development plan is out-of-date permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits, and unless specific policies in the Framework indicate development should be restricted.

8. The LP is the adopted development plan and saved LP Policies DS1, DS12 and DS14 seek, among other matters, to categorise a hierarchy of settlements in terms of acceptable forms of development and restrict development within the open countryside. These policies relate to housing supply and therefore due to the lack of a demonstrable five year housing land supply they are out of date in terms of paragraph 49 of the Framework. Therefore whilst I consider that the proposal would conflict with saved LP Policies DS1, DS12 and DS14, as they are out of date I only accord them limited weight. Saved LP Policy DS3 relates to general development requirements including, among other matters, design, living conditions and sustainable transport considerations. As this is not a policy for the supply of housing I accord it significant weight.

Sustainability of the location

9. The proposal is for an outline application for 6 houses with all matters reserved except the access, which would be taken off an existing road that leads directly off the A449. The appeal site lies to the south of the small hamlet of Bastonford, with a public house located immediately to the north of the appeal site and a small cluster of houses to the west across the A449. To the south of

the site is open countryside and it is not disputed by either of the parties that the site lies outside of any designated settlement boundary, although the appellant contends that the site would in effect be an extension to Bastonford.

10. In terms of sustainable development in rural areas, paragraph 55 of the Framework states that housing should be located where it would enhance or maintain the vitality of rural communities, and it cites as an example where development in one village may support services in another village. Furthermore, paragraph 55 states that local planning authorities should avoid isolated new homes in the countryside unless there are special circumstances. I consider that the proposal would not meet any of the examples of special circumstances that paragraph 55 describes.

11. Although the proposal may provide additional future patronage for the adjacent public house, I do not consider that the site is located within a village. Consequently I consider that the scenario outlined in paragraph 55, of housing in one village supporting services in another village, does not apply in this instance.

12. The village of Powick lies some 1.5 km to the north, Worcester is some 3 km away and Malvern some 2.5 km away. There is a bus route along the A449 with bus stops nearby, and the bus service is both frequent and operates on 7 days a week. Therefore there would be some benefits in terms of access to facilities by sustainable travel methods. The nearest village of Powick lies beyond the 800m that is taken as the distance considered to be 'reasonably accessible' as one of the criteria for non-strategic housing allocations in preparations for the emerging SWDP. It is reasonable to assume that there would be only a limited degree of walking and cycling undertaken by the future occupiers to the facilities and services in Powick. Whilst I find conflict with paragraph 55 of the Framework, the presence of a regular bus route and some facilities nearby also leads me to conclude that the site is not greatly isolated.

13. Paragraphs 7 and 8 of the Framework refer to three, mutually dependent dimensions to sustainable development: economic, social and environmental. In regard to the environmental element of sustainable development, I consider that overall the location of the site is reasonably remote from most services and facilities in terms of walking and cycling. As such this would increase the need to travel by means of the private motor car for the future occupiers of the proposed housing, which would represent a significant disbenefit of this proposal.

14. However, this has to be set against the vehicle movements associated with the existing use of the site. The appellant has provided evidence that purports to demonstrate that vehicle movements would be reduced as a result of this proposal. The likely travel patterns associated with a commercial use would be different from those associated with a housing development. Nevertheless, I consider that as the site contains an existing commercial operation there would be some substitution of vehicle movements, and I attach significant weight to this.

15. The appeal site comprises an area of hardstanding that is used for the sale and renovation of caravans. At the time of my site visit the majority of the site was occupied by caravans that were in various states of repair, and there were also other single storey buildings on the site, including a workshop and site office.

Although a hedgerow borders part of the site, the existing site makes a minimal contribution in biodiversity terms.

16. Beyond the site to the south lies an area of open land, and when viewed from the south the caravans on the appeal site are conspicuous within the landscape to a detrimental extent. The development proposes some variation in housing types with both detached and semi-detached properties. Although I do not have the full details of the proposed designs and layout, nevertheless I consider that a proposed housing use would relate well in visual terms to the existing housing in the locality.

17. The proposed six dwellings would be of a larger scale than any of the individual caravans or buildings on site. However, the dwellings would have garden areas. As such, the proposal would be likely to increase the amount of open space within the site and this would give rise to a benefit to the area in landscape terms. In addition, as the current site is of very limited habitat value, the proposal has the potential for biodiversity improvements as part of any reserved matters application. Consequently, I consider that the proposal would comply with part of saved Policy DS3 of the LP that requires landscape and ecological features to be safeguarded and where possible enhanced, and I accord significant weight to the proposal's landscape benefits and moderate weight to the biodiversity benefits.

18. In terms of the economic element of sustainable development the proposal would entail the loss of an existing employment site. Although the construction of the housing would provide some economic benefits, these would be relatively short-lived. In terms of the social element of sustainable development benefits, the proposal would provide six additional houses, including a single intermediate affordable house. Whilst this is not a substantial number of new houses, nevertheless it would represent a benefit in terms of increasing the supply of housing, particularly as there is a shortfall in the required five years housing supply. Furthermore the proposal would be likely to provide a degree of patronage for the nearby community facilities.

19. A number of previous appeal decisions have been cited in relation to this appeal, and the Council has provided copies of some decisions. Whilst I do not have the full details of any of these cases, inevitably their circumstances will differ from the particular circumstances of the proposal that is before me. Therefore I only attach limited weight to these other decisions.

20. The test of sustainable development represents a balance between the factors that weigh in favour of the proposal and those that weigh against it. I consider that when assessed overall the provision of housing and the landscape and potential biodiversity benefits would outweigh the loss of an employment site and the likely reliance on the private motor car that this location would engender. Consequently I conclude that the proposal would represent a sustainable form of development for which there is a presumption in favour, as indicated in paragraph 49 of the Framework.

Other matters

21. Concerns have been expressed by a local resident regarding drainage, and in particular that a drainage pipe runs through the curtilage of the neighbouring property and this has experienced problems in the past. I note that following the submission of a revised Drainage Strategy the Council's Drainage Engineer

did not object to the proposal. The site is currently sited on an area of hardstanding and I consider that through the imposition of relevant planning conditions and the adoption of sustainable drainage methods it is likely that flood risk and site drainage matters could be satisfactorily addressed. The fact that the Council's Drainage Engineer did not raise any objections to the proposal, subject to planning conditions, adds weight to my conclusions on this matter.

22. I am mindful of the difference in levels between the appeal site and neighbouring properties and the concerns that have been raised about the potential effect on living conditions in terms of overlooking and loss of privacy. However, these considerations would pertain more to detailed matters of scheme design that would be considered as part of a reserved natters application. Therefore I am satisfied that, if addressed correctly through layout, design and landscaping, the living conditions of neighbouring residents could be adequately protected.

23. Some concerns have been raised about the effect of the proposal on highway safety. However, the technical evidence concludes that the scheme would not give rise to a significant effect on highway safety and this view was supported by the Highways Authority.

Conditions

24. In addition to the standard condition which limits the lifespan of the planning permission, the Council has suggested a number of conditions in the event that the appeal succeeds. I have considered these in the light of the advice contained within the Planning Practice Guidance (the PPG). In allowing the appeal I shall impose conditions accordingly, improving precision where necessary in accordance with the advice in the PPG.

25. A condition setting out the requirements for the reserved matters is required in the interests of proper planning. Due to the difference in height between the appeal site and the neighbouring land, the submission of a detailed plan, including the proposed slab levels, is required. Details of car parking spaces, cycle parking provision and pedestrian links to the existing footpath are required in the interests of highway safety and ensuring the free flow of traffic, and promoting sustainable travel options.

26. A condition to require details of an acoustic barrier necessary in order to protect the living conditions of future residents in terms of noise from the nearby A449. Conditions requiring the submission of a Construction Environmental Management Plan and specifying hours of construction respectively are necessary in the interests of highway safety and in order to protect the living conditions of the occupiers of nearby properties in terms of construction noise.

27. A condition requiring the submission of details for the proposed foul and surface water drainage systems is necessary in the interests of flood risk and ensuring appropriate drainage is provided.

Planning balance and conclusion

28. In accordance with paragraph 49 of the Framework I have considered this proposal in the context of the presumption in favour of sustainable development, and have considered relevant development plan policies for the

supply of housing not to be up-to-date. Therefore, whilst I acknowledge a conflict with saved LP Policies DS12, DS14, and DS1 parts c and d, I attach only limited weight to these policies.

29. In addition, the proposal would conflict with paragraph 55 of the Framework, although this is tempered by the fact that the site has an existing commercial use and there is a good bus service and some facilities in reasonably close proximity. Furthermore, I conclude that this conflict would be outweighed by the benefits of the proposal, particulalrly in terms of increasing housing supply and landscape improvements. Consequently, when taken as a whole, and having regard to paragraphs 14 and 49 of the Framework, I therefore conclude that the adverse impacts of granting permission would not significantly and demonstrably outweigh the benefits that I have identified.

30. Therefore for the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should be allowed.

GP Jones

INSPECTOR

Schedule of conditions

1) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission. The development hereby permitted shall be begun not later than whichever is the latest of the following dates:

   a. The expiration of three years from the date of this permission; or,

   b. The expiration of two years from the final approval of the reserved matters; or

   c. In the case of approval on different dates, the final approval of the last such matter to be approved.

2) 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 begins and the development shall be carried out as approved.

3) Prior to the commencement of development a detailed plan showing the levels of the existing site, the proposed slab levels of the buildings approved and a datum point outside of the site, shall be submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the approved details.

4) Prior to the commencement of development, details of acoustic fencing shall be submitted to and approved in writing by the local planning authority. These details shall include a plan (at a minimum scale of 1:500) detailing the position of all proposed boundary treatments and annotated or accompanied by a schedule specifying the type, height, composition and appearance of the acoustic fencing throughout the site. The approved acoustic fencing shall be erected in accordance with the approved details before the dwellings are first occupied and thereafter retained in that form, notwithstanding the provisions of Schedule 2, Part 2 of the Town and Country Planning (General Permitted Development)(England)Order 2015 (or any Order revoking and re-enacting that Order with or without modification).

5) Prior to the first occupation of any dwelling hereby approved parking space shall be laid out within the curtilage of each property for car parking and vehicular turning facilities to accord with the Council's standards to enable vehicles to park and turn so that they may enter and leave the site in a forward gear. The parking and turning areas shall be properly consolidated, surfaced and drained in accordance with details to be submitted to and approved in writing by the local planning authority, and these shall not thereafter be used for any other purpose than the parking of vehicles.

6) Prior to the first occupation of any dwelling hereby approved secure parking for cycles to comply with the Council's standards shall be provided within the curtilage of each dwelling and these facilities shall thereafter be retained for the parking of cycles only.

7) Prior to the commencement of the development hereby permitted engineering details of the works required to form pedestrian links from the site to connect to the existing footpath alongside the A449, shall be submitted to and approved in writing by the local planning authority, and

no property on the development hereby approved shall be occupied until the scheme has been constructed in accordance with the approved details.

8) Prior to the commencement of development a Construction Environmental Management Plan (CEMP) shall be submitted to an approved in writing by the local planning authority. This shall include the following:

a. Measures to ensure that vehicles leaving the site do not deposit mud or other detritus on the public highway; and

b. Details of parking areas for site operatives, materials storage areas and the location of site operatives' facilities.

The measures set out in the approved plan shall be carried out in full during the construction of the development hereby approved. Site operatives' parking, materials storage and the positioning of operatives' facilities shall only take place in locations approved in writing by the local planning authority.

9) Prior to the commencement of development full details of all foul and surface water drainage systems shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented in full before the first use of the buildings hereby permitted and shall be retained as such thereafter.

10) Demolition/ground works/construction works shall not take place outside of the following hours:

Monday to Friday 07:30 to 19:00 hrs;

Saturday 07:30 to 13:00 hrs

There shall be no such working on Sundays, Bank or Public Holidays.