
Appeal Decision

Site visit made on 11 October 2016

by Jonathon Parsons MSc BSc(Hons) DipTP Cert(Urb) MRTPI

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

Decision date: 8th November 2016

Appeal Ref: APP/J1860/W/16/3153972

**Sherrards Green Farm House, Madresfield Road, Malvern, Worcestershire
WR13 5AS**

- 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 Peter Dorrell against the decision of Malvern Hills District Council.
 - The application Ref 15/01145/FUL, dated 31 July 2015, was refused by notice dated 25 January 2016.
 - The development proposed is the erection of 2 detached cottage style dwellings in the garden of Sherrards Green Farm House.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The South Worcestershire Development Plan (SWDP) has been recently adopted. In the Council's reasons for refusal, the policies of the Malvern Hills District Local Plan 2006 have been replaced by Policies SWDP 1, SWDP 2, SWDP 3, SWDP 4, SWDP 21 and SWDP 22 which were referred to in the Council's reasons for refusal as emerging policies. In providing an update on the development plan situation, the Council has also indicated that it has a 5 year deliverable housing land supply.

Main Issues

3. The main issues are (a) the proximity and accessibility of the proposal to services and facilities, (b) whether there is a significant impact on protected species and biodiversity, (c) the highway safety of road users and (d) whether the proposal amounts to sustainable development.

Reasons

Accessibility to Services and Facilities

4. The application site is within designated countryside under the SWDP. Policy SWDP 2 sets out a development strategy and settlement hierarchy for delivering development based on sustainability principles and under this policy development is strictly controlled within the countryside. Policy SWDP 4 is a multi-limbed policy supporting the delivery and implementation of transport strategy and infrastructure. In managing travel demand, the policy indicates
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that development should minimise the demand for private motor vehicle travel and offer genuinely sustainable travel choices.

5. The proposed site is accessed off Madresfield Road leading to Malvern which has a significant range of facilities and services for people's day to day needs. The Framework does recognise opportunities to access services and facilities will vary from urban to rural areas. The residential areas of Malvern would not be a great distance from the two dwellings being further west along Madresfield Road and there would be some scope for cycling. The appellant has indicated that a local convenience store is approximately 300 metres from the site. However, the Council has indicated that the nearest shops would be located at Malvern's Pound Bank, some 1.2km away. Furthermore, it has indicated that Great Malvern Primary School would be some 1.5km distant and the Madresfield School would be some 1.2km distant. Similarly access to Great Malvern train station would be some distance away. From what I saw on my site visit, the majority of facilities and services would be some distance from the two proposed dwellings in accordance with evidence provided by the Council.
6. Furthermore, although verges and common land are wide alongside the main road leading into Malvern, there is a lack of hard surfaced footways/footpaths or street lighting in the vicinity of appeal site. A public footpath leads to Northend Lane to a retail park but this also does not have significant street lighting coverage. Such considerations would discourage walking especially at night or during inclement weather. There is a bus stop approximately 750m away from the site which provides services to shopping areas of Barnards Green, Pickering Road and the retail park. However, the services are not frequent, being about every two hours. Therefore, in the main, accessibility to local services and facilities by foot and public transport would not be easy for these reasons.
7. The opportunity for the dwellings to accommodate home working cannot be guaranteed and therefore any reduction in the need for the use of a private motor vehicle. In summary, there would be an overall unfavourable impact arising from the future residents' accessibility to services and facilities which would necessitate the use of the private motor car in many instances. Therefore, the proposal would conflict with Policies SWDP 2 and SWDP 4.

Protected Species and Biodiversity

8. An Ecological Assessment (EA) in the form of a desk stop study and Phase 1 Habitat Survey has been submitted. The EA identifies unmanaged semi-improved grassland and improved grassland (lawns). Although it indicates amphibians are unlikely to breed on the site, the semi-improved grassland could hold reptiles, principally Slow-worms and provide habitat for the Great Crested Newt (GCN), a protected species. There are ponds within approximately 250m of the appeal site that could be used for breeding by GCNs. The EA recommends further surveys in respect of GCN and reptiles which should then be used to devise appropriate mitigation and compensation.
9. These surveys would have to be carried out at the appropriate time during the spring and summer. Based on the evidence before me, I am not persuaded that there are exceptional circumstances to justify a planning condition to ensure these surveys and mitigation take place. In this regard, there is a reasonable likelihood of protected species being present on the site and there is

a risk that they could be adversely affected by the proposed development given its nature. Without further survey work and assessment, it is not possible to assess whether mitigation is possible for this scheme by way of a planning condition. For these reasons, I can only conclude that there would harm to protected species and biodiversity. Accordingly, the proposal would conflict with SWDP Policy 22, which amongst other matters, requires development not to compromise the favourable conservation status of a protected species or species recognised in the Council's Biodiversity Plan, and where appropriate, to put in place compensation measures.

Highway Safety

10. The site would be accessed off an existing farm access which would be improved to achieve visibility requirements of 90m length in either direction. The appellant indicates such requirements would be acceptable for a 60mph speed limit road. However, the County Council highway authority indicates that the Manual for Streets (MfS) identifies an absolute minimum of 154m in length and a desirable minimum of 203m in length.
11. The highway authority has not discounted the possibility of the visibility splay as proposed but only following assessment of a speed survey. The appellant has carried out private speed survey tests which indicate that speeds over 45mph around the bend of the road, approaching the site, would be dangerous as no camber exists. However, it is unclear on what basis the speed tests were carried out and whether it was undertaken having regard to relevant highway practice and standards, including those within MfS.
12. Although the MfS provides guidance only, it is a technical document based on empirical research relating to highway safety and therefore I attach significant weight to it. In the absence of a satisfactory vehicle speed survey, the proposal would therefore be harmful to the safety of highway users of Madresfield Road. Accordingly, the proposal would conflict with SWDP 21, which amongst other matters, requires development to be of a high quality design and for vehicular traffic from the development to be able to access the highway safely.

Sustainable Development

13. Policy SWDP 1 indicates that when considering development proposals, the local planning authority will take a positive approach that reflects the presumption in favour of sustainable development detailed in the National Planning Policy Framework (the Framework).
14. Economically, the development would result in financial outlay and employment through building works and the need for building supplies to build the two dwellings. Socially, the creation of two dwellings would provide for the needs of present and future generations and would boost housing supply in accordance with the Framework. In terms of a high quality built development, the development would be attractively designed to match the local vernacular of neighbouring dwellings, a view shared by the Council. However, the proposal would not result in a high quality built development because of the harm to the highway safety of road users conflicting with development plan policy. Furthermore, the development has limited accessibility to local services and facilities which would necessitate the use of the private motor car in many instances in conflict with development plan policy.

15. Environmentally, the dwellings would not be harmful to the character and appearance of the area given their design and site layout in keeping with the loose grouping of dwellings and buildings in Sherrards Green. As such, this would be a neutral effect. The use of electric cars has been suggested to reduce carbon emissions but not every occupier may be willing to accept such a requirement and the means of achieving this by condition or obligation is not clear cut. In terms of prudent use of a resource, the development would re-use land and the dwellings would be constructed with Solar PV panels and air source heat pump to give green energy which would be of some benefit reducing the carbon footprint of the development. Finally, I have concluded that there would be harm to protected species and biodiversity in conflict with development plan policy.
16. Weighing up the harms and benefits, it is accepted that there are some factors in favour of the site's accessibility for the reasons indicated so whilst there would be a social impact, it would be modest for these reasons. Nevertheless, the lack of high quality designed built development through inadequate provision of visibility splays would result in a significant impact. In the case of highway matters, the visibility splay is substantially below that recommended in the MfS. By reason of importance attached to protected species and biodiversity under National and European legislation, I also attach significant weight to these considerations and impacts under the environmental dimension. Set against these adverse impacts, the financial and employment benefits under the economic dimension would be small by reason of them being limited to the construction period of the development. The social benefits of the further residential development would also be modest significant given only two dwellings would be created. In itself, the re-use of the land would be a small environmental benefit but whilst the sustainable design measures would reduce the carbon footprint of the development, there would still be carbon emission impacts from the development through its construction and the use of private motor cars limiting these green benefits.
17. Following the adoption of SWDP, the Council has provided detailed evidence to show that it has a five year supply of deliverable housing having regard to Policy SWDP3. However, even if there was a shortfall in the five year supply, the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits. In this regard, the social and environment impacts of the development would be overriding for the reasons indicated. Accordingly, the development would not be sustainable and there would be a conflict under SWDP Policy 1.

Other matters

18. The two dwellings would be self-build which would be included in a self-build and custom housing register. However, this consideration would not be of overriding importance given the conflicts identified with the Development Plan and National Planning Policy Framework.

Conclusion

19. In conclusion, the proposal would conflict with Policies SWDP 1, SWDP 2, SWDP 4, SWDP 21 and SWDP 22, and the development plan as a whole. It would not be sustainable both in terms of SWDP Policy 1 and the Framework and there are no other material considerations sufficient to outweigh the development plan conflict identified. For the reasons given above, and having

regard to all other matters raised, I conclude that the appeal should be dismissed.

Jonathon Parsons

INSPECTOR