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## Appeal Decision

Site visit made on 13 June 2017

**by Elaine Worthington BA (Hons) MTP MUED MRTPI**

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

**Decision date: 4<sup>th</sup> July 2017**

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**Appeal Ref: APP/J1860/W/17/3170968**  
**land off A44, Broadwas, Worcester**

- 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 P Brooke against the decision of Malvern Hills District Council.
  - The application Ref 15/01610/FUL, dated 6 November 2015, was refused by notice dated 13 September 2016.
  - The development proposed is an outline application for the erection of a single dwellinghouse with all matters reserved except for Access.
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### Decision

1. The appeal is allowed and outline planning permission is granted for the erection of a single dwellinghouse with all matters reserved except for Access at land off A44, Broadwas, Worcester in accordance with the terms of the application Ref 15/01610/FUL, dated 6 November 2015, subject to the conditions in Annex A.

### Procedural Matter

2. The application was made in outline with all matters except access reserved for future consideration. However, a plan showing the 'general proposals' has been submitted which shows a two storey house and detached garage. Although they are not marked as such, given the nature of the outline application made, I have had regard to these plans but treated them as being indicative.

### Main Issues

3. The main issues in this case this case are:
  - Whether the proposal would be a suitable site for development having regard to national and local policies which seek to promote sustainable patterns of development; and
  - The effect of the proposal on the character and appearance of the surrounding area.

### Reasons

#### *Sustainable patterns of development*

4. The appeal site is a part of a paddock that adjoins an existing small group of dwellings which are accessed via a cul-de-sac off the A44. It is immediately
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adjacent to open agricultural land to the north and is outside the development limits of Broadwas and therefore in the countryside in policy terms. Policy SWDP2 of the South Worcestershire Development Plan (Development Plan) sets out the development strategy and settlement hierarchy for the district. Criterion C defines open countryside as land beyond any development boundary, and advises that in the countryside development will be strictly controlled and limited to certain exceptions. It is not argued that the appeal proposal for single dwelling would meet any of these.

5. Paragraph 55 of the National Planning Policy Framework (the Framework) indicates that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances.
6. The appeal site is close to the existing dwellings to the south and east and immediately adjacent to the development limits of Broadwas. Although the Council considers the edge of the settlement boundary of Broadwas to be 50 metres distance from the site, the appellant indicates that the boundary runs to the rear of Cedar House and Long Meadow directly to the south of the appeal site. The site adjoins existing stable buildings and is not separated from nearby development to the south by open land. This being so, it is not isolated in the sense of its location close to other development.
7. Broadwas is identified as a Category 2 settlement in the Hierarchy of Settlements set out Annex D of the Development Plan. This indicates that settlements in this category have at least two key services including a shop and access to at least daily services for employment and shopping purposes. Whilst it has no distinct settlement centre, the Council advises that there is a primary school some 300 metres south of the site, a village hall around 200 metres east of the site and the Royal Oak Public House 150 metres to the south.
8. Although there is no pavement to connect the site to the existing cul-de-sac it could nevertheless be reached on foot via the proposed house's driveway which would in turn connect to the access drive for Cedars Farm (which runs between Oakwood and Long Meadow to the south). From there, the cul-de-sac leads to the footpath on the other side of the main road which connects to the main part of the village. This is the pedestrian route already used by the occupiers of Cedars Farm and I see no need for a dedicated footway within the appeal site's access driveway. The facilities in Broadwas, along with public transport opportunities, are therefore accessible from the site on foot. There are also some opportunities for cycling. As such, I consider that the site is accessible to the village and that the future occupiers of the proposed houses would have some alternatives to the use of a private vehicle to access the facilities there.
9. Despite its location on the edge of a Category 2 settlement the Council does not regard the proposal to be in a sustainable location and thinks it would lead to additional car usage. It cites Development Plan Policy SWDP4 which requires development to minimise travel demand and offer sustainable travel choices and the aim of the Framework to actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling and focus significant development in locations which are, or can be made sustainable.

10. Although no further information is provided by the Council to explain its concerns in this regard, I accept that the site is not close to an urban area and the future occupiers of the proposed house would have to go further afield to meet their wider shopping and employment needs. Accordingly, there would be likely to be some increase in demand for travel using the private car.
11. That said, I am mindful that the Council has identified Broadwas as a Category 2 settlement which (along with Category 1 and 3 settlements) Development Plan Policy SWDP2 recognises as being suited to accommodate market and affordable housing needs. The policy also states that a number of housing sites of an appropriate scale are allocated in Category 1, 2 and 3 settlements to address the need for housing and support local services. This being so, it is clear that the Council envisages new housing in Broadwas and has identified it as a suitable settlement for such growth.
12. Moreover, Paragraph 29 of the Framework recognises that different policies and measures will be required in different communities and opportunities to maximise sustainable transport solutions may vary from urban to rural areas. In my view, the single dwelling proposed would generate few car journeys, no more than could be reasonably expected in a rural area. Overall the proposed house would not be remote from the services and facilities in Broadwas and would be located where it would enhance or maintain the vitality of the rural community in accordance with paragraph 55 of the Framework.
13. Whilst there is conflict with Development Plan Policy SWDP2, I do not regard the proposal for single dwelling to be of such a scale as to seriously undermine the Council's overall development strategy and settlement hierarchy. I have also considered the Council's concern that the proposal would set an undesirable precedent for future unwanted development in the countryside. However, no directly comparable sites to which this might apply have been put forward. Each application and appeal must be treated on its individual merits, and a generalised concern of this nature does not in itself justify withholding planning permission.
14. I therefore conclude on this issue that whilst there would be some conflict with Development Plan Policy SWDP2, overall the proposal would be a suitable site for development having regard to national and local policies which seek to promote sustainable patterns of development. Thus the proposal would not be contrary to Development Plan Policy SWDP1 which concerns the Council's overarching sustainable development principles or with the core planning principle of the Framework to actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling and focus significant development in locations which are, or can be made sustainable. My findings in these regards are consistent with those of the Inspectors in the other appeals<sup>1</sup> referred to by the appellant.

#### *Character and appearance*

15. The appeal site is part of an open paddock that appears to be used in conjunction with the adjoining stable buildings and in association with the domestic use of Cedars Farm with various cars and trailers being kept there. The Council confirms its use as a pony paddock and former ménage. It is

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<sup>1</sup> APP/J1860/W/15/3135877, APP/J1860/W/16/3155541, APP/J1860/W/16/3152030 and APP/J1860/W/16/3153506

delineated by high trees and hedges to its west and south boundaries and a post and rail fence to the open fields to the north. The adjoining section of the wider paddock to the east is not part of the application site and would remain open, but there is a hedge on Cedars Farm's western boundary beyond this. As such, the site is distinct from the fields to the north which are used for grazing animals and does not readily appear as part of the wider open countryside. Rather, it relates closely to the nearby residential properties including those to the south which form part of the main built up area of the village and are within its development limits.

16. The existing houses nearby form a spur of development off the main road which is at the very edge of the built up area or Broadwas. Its northern extreme is at some distance from the main road running through the village (estimated by the Council to be around 150 metres). I accept that the proposal would enlarge the existing pocket of development which is itself somewhat out on a limb in relation to the main part of the generally linear village and departs from its prevailing pattern of development.
17. On the other hand, the proposal would not extend development northwards beyond the adjacent northern boundary of Cedars Farm's curtilage. It would be well contained, would not protrude into the wider countryside and would generally respect the existing field boundaries. Therefore, I have some sympathy with the appellant's view that the proposal would lead to a rounding off of the existing spur of development and generally appear as a logical extension to the settlement.
18. Furthermore, the proposed house would not be visible from the main road, the surrounding houses or any public vantage points. Any long distance views from the countryside to the north would in any event be taken against the backdrop of the existing buildings surrounding the site. In this context I am not convinced that it would be appreciated as an unwelcome intrusion or a harmful encroachment into the countryside.
19. Although the Council refers to Development Plan Policy SWDP25, it has not been put to me which landscape area or type the appeal site falls within with reference to the latest Landscape Character Assessment and I am not aware of the area's wider primary characteristics and important features. In any event, as set out above, I do not regard the appeal site to form part of the wider surrounding landscape, and so am satisfied (with criterion A ii of the policy in mind), that the proposal is appropriate to and integrates with the character of the site's landscape setting. Accordingly, the proposal would not have any adverse impact on the intrinsic character and beauty of the surrounding countryside.
20. Even though the proposal is in outline with matters of appearance, layout and scale reserved for future consideration, based on the indicative drawings, nor do I see any reason why the proposed dwelling would not be in keeping with the pattern of development in the immediate vicinity of the site. Even given its orientation relative to Cedars Farm I am not persuaded that it would be isolated or uncharacteristic of this part of the village.
21. I therefore conclude on this issue that, the proposal would cause no harm to the character and appearance of the surrounding area. Consequently there would be no conflict with Development Plan Policy SWDP1 which concerns the Council's overarching sustainable development principles. The proposal would

not be contrary to Development Plan Policy SWDP21 which is permissive of development where the layout, scale, massing, density, materials and design of the proposal respect the character and quality of the area. Nor would it be at odds with Development Plan Policy SWDP25 or the aims of the Framework to recognise the intrinsic character and beauty of the countryside and support thriving rural communities within it, and to always seek to secure high quality design.

*Other matters*

22. The officer's report refers to the proposal's potential impact on protected species with reference to Development Plan Policy SWDP22 and the duty under Section 40 of the Natural Environment and Rural Communities Act 2006 for public bodies to have regard to the purpose of conserving biodiversity. The Council is concerned that insufficient information has been submitted to demonstrate that any potential impacts and risks to protected species have been assessed and could be adequately avoided, mitigated or compensated. No survey has been submitted and no response made to these concerns by the appellant.
23. However, the Council does not provide any further details or information as to what particular habitats it thinks the site may support, or which species it anticipates could be found. In practical terms, I am mindful of the site's use as a pony paddock and former ménage along with the parking of vehicles and trailers there that is currently taking place. The indicative plans show a dwelling set centrally within the site away from the site's boundary hedgerows and trees which would remain undisturbed. Additionally there is existing residential development nearby and vehicle movements taking place in the immediate vicinity.
24. This being so, in the absence of any further information on this matter, I have seen no substantiated evidence to suggest that there is a reasonable likelihood of protected species being present on or near the appeal site, or that there is any risk that they may be adversely affected by the proposal. Nor can I see that the proposal would lead to any significant biodiversity or geodiversity losses.
25. Thus, it seems to me that the Council's concern in this regard is generalised and without basis. Therefore I am content that the proposal would cause no harm to protected species. I am also conscious that the matter of landscaping is reserved for future consideration and would allow the Council to pursue biodiversity mitigation, compensation or enhancement measures as appropriate. As such, overall I see no conflict with Development Plan Policy SWDP22 criterion F which advises that development should, wherever practicable, be designed to enhance biodiversity and geodiversity conservation interests as well as conserve on site biodiversity corridors/networks. Nor would the proposal undermine the aim of paragraph 109 of the Framework to enhance the natural and local environment by minimising impacts on biodiversity.
26. Despite the concerns of local residents the Council raises no objections to the effect of the proposal on the living conditions of nearby occupiers. In terms of outlook and views, with the exception of the access (which is the existing access to the stable buildings), the site does not include the eastern half of the paddock immediately to the rear of the houses at the head of the cul-de-sac.

Whilst I note the concerns of local residents that vehicles may nevertheless be parked on the access to the rear of the houses, the indicative plans show a garage and parking area in front of the proposed house and away from the rear of the adjacent dwellings. These matters could be controlled by the Council at reserved matters stage. Thus, I see no reason why the outlook of nearby occupiers would be unduly compromised or views of the open countryside would be obstructed by the proposal.

27. Local residents and the Parish Council are also concerned about visibility at the junction where the cul-de-sac meets the main road and the fast moving traffic there. They also question the suitability of the narrow private road for more than 6 houses, and the use of the gravel driveway between Long Meadow and Oakwood for a further dwelling, and are concerned about additional wear and damage to the surfaces. The proposal is for a single dwelling only and would not increase vehicle trips or use of the existing access and driveway to any great extent. Neither the Highway Authority nor the Council raise any objections to the proposal on these grounds and I have seen no substantiated evidence that would lead me to a different view.
28. Additionally, local residents raise the issue of the impact of more houses on the sewerage system and refer to works being undertaken by Severn Trent Water in the area. However, the Council raises no objection in this regard and I have nothing to suggest that the modest scheme for a single dwelling would put any unacceptable pressure on the local sewerage system that could not be accommodated. As such, I do not regard this to be a reason to resist granting planning permission.
29. The Council refers to a number of appeal decisions relating to other sites in Broadwas. I have not been provided with any further information regarding those decisions and I am not aware of the full circumstances that led to them. However I note that in the case of the appeal at land between Church Lane and Broadwas Primary School<sup>2</sup> the proposal concerned a rural exception site which the inspector considered would represent a significant extension of the built area of Broadwas and a large increase in the size of the village community. That would not be the case for the current appeal scheme.
30. With regard to an appeal at Butts lane<sup>3</sup>, in contrast to the appeal scheme, the Inspector concluded that the proposal would cause significant harm to the rural character and appearance of the locality and have adverse effect of the setting of listed buildings. Finally, unlike the proposal before me, the development proposed at Church Lane<sup>4</sup> was argued to be infill development and was found to be harmful to the setting of a listed building. Consequently, I am not persuaded that those schemes are directly comparable with the appeal proposal. In any event, each planning application and appeal must be determined on its own individual merits. Consequently, I do not consider these developments to count against the proposal.

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<sup>2</sup> APP/J1860/W/3159764

<sup>3</sup> APP/J1860/W/15/3140052

<sup>4</sup> APP/J1860/W/16/3156731

### *The Planning Balance*

31. The Council considers it is able to demonstrate a 6.7 year housing land supply. The appellant does not dispute this but refers to the presumption in favour of sustainable development set out at paragraph 14 of the Framework. However, since the parties are agreed that the Council can demonstrate a 5 year supply of housing land, with reference to paragraph 49 of the Framework, I have seen nothing to suggest that the Council's housing policies are out-of-date.
32. Accordingly, I have had regard to the third bullet point of paragraph 14. However, since I have concluded that the proposal is in conflict with the development plan, paragraph 14 of the Framework, and the presumption in favour of sustainable development, does not apply. As such the weighted balance at the fourth bullet of paragraph 14 of the Framework does not come into play in this appeal.
33. Nevertheless, the standard planning balance remains necessary. I have considered the proposal against the three limbs of sustainable development set out at paragraph 7 of the Framework to determine whether the development is sustainable and have also assessed its benefits.
34. With regard to the economic role of sustainable development, the proposal would lead to the creation of construction work and support for local services and facilities arising from future occupiers. It would also help to enhance or maintain the vitality of the rural community. Despite the limited scale of the proposal these are benefits.
35. The proposal would also add to housing land supply. Notwithstanding the Council current housing land supply situation, a 5 year supply is a minimum requirement rather than a maximum allowance and the proposal would align with the government's aim to boost housing supply, if only by a modest amount. This counts in its favour and aligns with the social role of sustainable development which seeks to support strong, vibrant and healthy communities by providing the supply of housing required to meet the needs of present and future generations.
36. Turning to the environmental role, I have found that the proposal would be in a location immediately adjacent to a Category 2 Village with adequate access to services and facilities and would cause no harm to the character and appearance of the surrounding area or to protected species or biodiversity. Thus, I see no conflict with the environmental role of sustainable development.
37. Despite the concerns of local residents and the Parish Council considered above, there are no objections from the Council or the Highway Authority in relation to highway safety, the living conditions of nearby occupiers or drainage. The absence of harm in these regards counts neither for nor against the proposal.
38. Taking all these matters into account, in my view the benefits of the scheme are sufficient to outweigh the conflict with the development plan, and I consider the proposal to be sustainable development. The proposal would therefore be in accordance with the development plan as a whole and should be permitted.

## **Conclusion and Conditions**

39. For the reasons set out above, I conclude that the appeal should be allowed.
40. The Council has suggested a number of conditions which I have considered in light of the advice in the National Planning Practice Guidance and amended some of the wording for the sake of clarity where necessary.
41. Although not suggested by the Council, I have attached conditions limiting the life of the outline planning permission and setting out requirements for the reserved matters in accordance with the requirements of the Act. Other than as set out in this decision and conditions, it is necessary that the development shall be carried out in accordance with the approved plans for the avoidance of doubt and in the interests of proper planning.
42. Details of the arrangement for the parking of site operatives during the construction period are necessary in the interests of highway safety, as are conditions to secure the provision and retention of car and cycle parking (as well as to meet the Council's standards and to encourage cycle use). I have imposed conditions relating to the drainage of the site to ensure that the site is adequately drained and to avoid pollution. A condition relating to sustainability measures is required in order to support adapting to climate change and moving to a low carbon economy. Finally, a condition limiting the hours of construction at the site is necessary in the interests of the living conditions of nearby occupiers.
43. Whilst the Council suggests conditions to secure details of materials, boundary treatments and landscaping I am satisfied that these can be considered as part of the reserved matters submissions.

*Elaine Worthington*

INSPECTOR

## **Annex A**

- 1) 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.
- 2) 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.
- 3) 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.
- 4) The development hereby permitted shall be carried out in accordance with approved plan drawing number 1519/01, but only in respect of those matters not reserved for later approval.
- 5) No development shall take place, including any works of demolition, until details of arrangements for the parking of vehicles of site operatives and visitors has been submitted to, and approved in writing by the local planning authority. The approved details shall be adhered to throughout the construction period for the development.
- 6) The dwelling shall not be occupied until space has been laid out within the site for 3 cars to be parked and for vehicles to turn so that they may enter and leave the site in forward gear and has been drained and surfaced in accordance with details that shall first have been submitted to and approved in writing by the local planning authority and that space shall thereafter be kept available at all times for those purposes.
- 7) The dwelling shall not be occupied until space has been laid out within the site for 6 bicycles to be parked and that space shall thereafter be kept available for the parking of bicycles.
- 8) No development shall take place until a soakaway test has been carried out in accordance with BRE Digest 365, or any other guidance as may be agreed in writing by the local planning authority. The results of the test shall be submitted to and agreed in writing by the local planning authority and the agreed recommendations shall be implemented in full prior to the occupation of the dwelling.
- 9) No development shall take place until details of the locations of any proposed soakaways have been submitted to and approved in writing by the local planning authority. Any soakaway shall be located no less than 5 metres from any building and 2 metres from any site boundary. If soakaway drainage is not possible, an alternative method of surface water disposal shall be submitted to and approved in writing by the local planning authority and the agreed scheme shall be implemented in full prior to the occupation of the dwelling.
- 10) No development shall take place until a scheme (including a timetable for implementation) including details of the incorporation of renewable and/or low carbon energy measures, measures to conserve and recycle water, energy efficiency measures, and construction materials shall have been submitted to and approved in writing by the local planning authority

as part of the reserved matters submissions required by condition 1. The approved scheme shall be implemented and thereafter retained.

- 11) Demolition or construction works shall take place only between 07.30 hours and 19.00 hours Mondays to Fridays and 07.30 hours to 13.00 hours on Saturdays, and shall not take place at any time on Sundays or on Bank or Public Holidays.