



Appeal Decision

Site Visit made on 5 January 2021

by Mr Stuart Willis MSc, BA (Hons), PGCE, RTPI

an Inspector appointed by the Secretary of State

Decision date: 28 January 2021

Appeal Ref: APP/J1860/W/20/3260404

The Oaks, Bell Lane, Lower Broadheath WR2 6RR

- 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 Anthony Candy against the decision of Malvern Hills District Council.
 - The application Ref 20/00621/FUL, dated 8 May 2020, was refused by notice dated 13 August 2020.
 - The development proposed is 3no. residential bungalows and associated works.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues of the appeal are:
 - Whether the proposal would be in a suitable location for housing, having regard to the local development strategy for the area;
 - The effect of the proposed development on the character and appearance of the area; and
 - Whether the proposal makes appropriate provision for affordable housing.

Reasons

Suitable Location

3. The appeal site is an area of grassed land with a public right of way (PROW) running along the top of the site and a track to the lower end. There is agricultural land beyond these which, like the site itself, are currently undeveloped with no buildings. There are views across the site from the PROW of the wider countryside. The group of properties to the one side of the appeal site appear as the edge of the settlement and separate from the converted barn to the other side of the site.
4. Policy SWDP1 of the South Worcestershire Development Plan (DP) sets out the broad presumption in favour of sustainable development in line with the National Planning Policy Framework (Framework). Policy SWDP2 of the DP establishes the settlement hierarchy and development policy that should apply in settlements and the open countryside.
5. One of the principles of Policy SWDP2 is to safeguard the open countryside, which is defined as land beyond any development boundary. It states that development in such locations is strictly controlled, limited to certain

exceptions and seeks to retain the open character of Significant Gaps. The purpose of Significant Gaps is to serve as a buffer or visual break between rural settlements and adjacent urban areas or protect the character and setting of settlements as well as to provide additional protection to open land that may be subject to development pressures.

6. In addition, Policy SWDP59 of the DP also sets out criteria where housing in villages will be permitted. It is clear that beyond any development boundary, new residential development is limited to certain circumstances as identified in the DP.
7. The site is located close to other residential development, and therefore the proposed dwellings would not be isolated in the context of paragraph 79 of the Framework. There are services and facilities within a relatively short distance of the site that could be accessed by transport modes other than private car. Notwithstanding this, the proposed development conflicts with the policies of the DP as it does not meet any of the exceptions where development in the open countryside is considered appropriate.
8. Furthermore, the proposal would be development into the defined Significant Gap. The site currently represents the beginning of open undeveloped land beyond the nearby cluster of development. The converted barn and associated buildings beyond the site are clearly visually and physically separate from the built form within the settlement to the other side of the appeal site. This is particularly apparent when travelling along the PROW. The proposal would not result in the loss of a buffer between settlements. Nevertheless, it would be an incursion into the countryside resulting in the loss of the existing clear gap to the converted barn. The scheme would extend development into the countryside.
9. Consequently, the proposed development would not be a suitable location for housing with regard to the local development strategy. Even though the site is not isolated from other residential properties, it is outside of the development boundary and would not meet any of the exceptions listed so would be contrary to Policy SWDP2 of the DP.

Character and Appearance

10. The appeal site is undeveloped agricultural land that appears as part of the open countryside rather than part of the village. The converted barn and associated buildings are visually divorced and separate from nearby dwellings.
11. There are open views across the site and the surrounding area that can be appreciated from a number of vantage points, despite the presence of some boundary vegetation. These include the adjacent PROW, properties close by and from the estate road serving the new dwellings the appeal site is accessed from. These views are attractive, providing visual links to the wider countryside. The open nature of the site makes a positive contribution to the character and appearance of the area.
12. The scheme would not result in the coalescence of settlements. However, it would diminish the contribution the site makes to the largely open agricultural setting beyond the built form of the settlement. In this instance the change in character from the settlement to open agricultural land begins at the appeal

- site. Although not a major incursion, the scheme would result in the space between Innisfree and the converted barn being lost.
13. The appearance of the dwellings themselves would draw on aspects of the existing built form in the village where there are a variety of styles. While cul-de-sac and courtyard developments are not prevalent, there are some similar layouts nearby. Therefore, the proposed layout of the site would not appear alien.
 14. Nonetheless, the construction of dwellings and the associated domestic paraphernalia would reduce and unacceptably damage the undeveloped qualities of the site. The proposal would be incongruous with the current appearance of the site and setting of the settlement.
 15. The agricultural building and garage¹ near the converted barn are visually and physically associated with it, rather than being the introduction of new residential development. They also extend away from the appeal site, and do not reduce the visual openness of the settlement setting. The new dwellings allowed at appeal² are visually enclosed with a crescent of properties bounding 3 sides of that site. This contrasts with appeal before me that extends the built form beyond the existing settlement edge and removes the existing gap to the converted barn. Therefore, those schemes are materially different.
 16. Therefore, the proposed development would harm the character and appearance of the area. It would conflict with Policies SWDP2, SWDP21 and SWDP25 of the DP where they aim to ensure that proposals integrate with its surroundings and landscape character and retain the open character of Significant Gaps. The scheme would also fail to comply with the Framework where it requires developments to add to the overall quality of the area and in recognising the intrinsic character and beauty of the countryside.

Affordable Housing

17. The Framework states that provision of affordable housing should not be sought for residential developments that are not major developments, other than in designated rural areas. The officer report refers to the site being within a designate rural area. Policy SWDP15 of the DP seeks a financial contribution towards local affordable housing provision for schemes of less than 5 dwellings.
18. The appellant has indicated a willingness to enter into a planning obligation for an off-site contribution and a draft agreement has been submitted. Notwithstanding this, no completed obligation has been provided to secure the contribution and it has not been shown that the circumstances of the case meet those to justify the use of a planning condition to secure a planning obligation.
19. Therefore, the proposal would not provide an appropriate level of affordable housing and so would conflict with Policy SWDP15 of the DP and the Affordable Housing SPD.

Other Matters

20. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that applications for planning permission, and therefore appeals, must be determined in accordance with the development plan, unless material

¹ APP/J1860/W/20/3248191 and 19/01789/CU

² APP/J1860/W/16/3164684

considerations indicate otherwise. The Framework comments that where a planning application conflicts with an up-to-date development plan, it should not usually be granted. Only if material considerations in a particular case indicate that the plan should not be followed should they be permitted.

21. The provision of a 5-year housing supply is not to be considered as an upper limit and the proposal would align with the national aim to boost the supply of housing and support small scale development. Nevertheless, while any contribution is worthwhile, the addition of 3 dwellings to the supply and mix of housing in the area would be small and there is limited evidence presented regarding specific a need for bungalows.
22. Similarly, the additional custom to existing services and facilities would be limited as would any economic benefits resulting from the temporary construction period. Environmental benefits associated with energy, landscaping and habitat enhancements would also be minimal given the size of the scheme.
23. My attention has been drawn to various permissions for new buildings in the same Significant Gap. In the appeal for new dwellings, there was already a property on part of the site, rather than a wholly undeveloped site like the scheme before me. Furthermore, that site is not as prominent from the PROW and does not extend beyond the crescent of existing development. Although the access to the appeal site would be through the road for those new dwellings, it would be viewed as separate to them given the intervening agricultural land. The buildings associated with the converted barn were not for new dwellings. Therefore, although the other permissions are relatively close to the appeal site, they are not directly comparable to this appeal proposal.
24. That there are no refusal reasons relating to living conditions of existing or proposed occupiers or highway matters are neutral factors.
25. Even when taken cumulatively the benefits of the proposed development would not outweigh the harm I have identified and the conflict with the development plan and Framework as a whole.

Conclusion

26. For the reasons set out above, and having considered all matters raised, I conclude that the appeal should be dismissed.

Mr Stuart Willis MSc, BA (Hons), PGCE, MRTPI

INSPECTOR