



Appeal Decision

Hearing Held on 12 May 2021

Site visit made on 18 May 2021

by Thomas Hatfield BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1st June 2021

Appeal Ref: APP/J1860/W/20/3255153

Broomhall Grange, Norton Road, Norton, Worcester, WR5 2PD

- 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 R. J. Parkin against the decision of Malvern Hills District Council.
 - The application Ref 19/01336/FUL, dated 28 August 2019, was refused by notice dated 18 February 2020.
 - The development is described as "*proposed development of 27 dwellings*".
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A s106 agreement has been submitted that would secure the proposed dwellings as affordable housing, and would make financial contributions towards the provision of a traveller site, a Community Development Officer, public transport infrastructure, Home to School Transport, cycle maps in the area, and the relocation of an existing speed limit sign. The s106 agreement is signed and dated, and I have taken it into account in reaching my decision.
3. The Council originally refused planning permission on 4 grounds, including in relation to drainage, highway safety, and the failure to provide a contribution to the off-site delivery of a traveller site. Subsequently, however, minor amendments were made to the scheme that addressed the second and third reasons for refusal. The s106 agreement has also overcome the fourth reason for refusal. The Council states that it no longer wishes to defend these reasons for refusal, and I have therefore not considered them in any further detail.
4. Policy SWDP 3 of the South Worcester Development Plan (2016) identifies separate housing requirements for the Wider Worcester Area (WWA), and the remainder of the District. The appeal site is within the WWA where the Council acknowledges that it is only able to demonstrate a 0.9 year supply against the 5 year requirement. In addition, my attention has been drawn to a recent appeal decision¹ which concluded that the Council's local housing requirement should be calculated using the standard method. That Inspector found that the Council were unable to demonstrate a 5 year supply on a District-wide basis.

¹ Ref APP/J1860/W/19/3242098

Regardless of which approach is taken, the Council is unable to demonstrate a 5 year supply of deliverable housing sites in this case, and the 'tilted balance' at Paragraph 11 d) of the Framework is therefore engaged. I return to this matter in my Overall Balance and Conclusion, below.

Main Issue

5. The main issue is whether the development would be consistent with planning policy for the Worcester South Urban Extension.

Reasons

6. The appeal site is located within the boundary of the Worcester South Urban Extension, which is allocated for around 2,600 dwellings under Policy SWDP 45 of the South Worcester Development Plan (2016). This policy sets out a number of detailed and site-specific requirements for the urban extension, including that it provides *"a Green Space buffer to the west of Norton Road separating the Broomhall and Norton Barracks communities, of a scale that maintains their individual identities"*.
7. Diagram 1 illustrates how the various site-specific requirements of Policy SWDP 45 are intended to apply. This shows a corridor of open space to the west of Norton Road of around 100 metres in width. However, Diagram 1 sits outside of the policy wording and so it is in effect part of the explanatory text. At the hearing, the Council acknowledged that it is not intended to be precise in all respects. In this regard, a recently approved² commercial development to the north of Taylors Lane provided a narrower green space buffer along Norton road than is envisaged in Diagram 1.
8. Whilst it is acknowledged that Diagram 1 can be interpreted with some degree of flexibility, it is nonetheless a specific requirement of Policy SWDP 45 to provide a green space buffer to the west of Norton Road. In this regard, I do not consider that this requirement can be met simply by adhering to Policy SWDP 5 of the South Worcester Development Plan, as that is a generic policy that applies to most new housing developments on greenfield land. In contrast, the requirement within Policy SWDP 45/1 is site specific and intended to achieve a different purpose, namely, to maintain the separate identities of both the new and existing communities.
9. At the hearing, it was asserted that the requirement to provide this green space buffer was only included at the instigation of local residents and the Parish Councils. It was further asserted that the existing housing to the east of Norton Road is not a separate settlement but is rather a modern southern extension of Worcester. However, the justification for including this requirement within Policy SWDP 45 has been scrutinised by the examining Inspector, who must have concluded that it was robust. The South Worcester Development Plan was found to be sound and now forms part of the development plan for the area. I see no reason to revisit the inclusion of this policy requirement in the context of this appeal.
10. It is asserted that a recent housing development at Talavera Road has already bridged the gap between the existing settlement and the proposed urban extension. However, at the hearing it was confirmed that this development

² Ref 20/01593/RM

was granted planning permission³ in 2011 and so it significantly pre-dates the South Worcester Development Plan, which was adopted in 2016. This site also appears to be under construction on the base map to Diagram 1. Accordingly, this development cannot be said to undermine the policy objective to provide a green space buffer to the west of Norton Road, as it was known when Policy SWDP 45/1 was being formulated.

11. Whilst the existing and proposed communities already meet at St Peters Garden Centre, this premises has a different character to the housing development on either side. It is also positioned some distance away at the southern tip of the existing built up area. In contrast, the appeal site is positioned close to the middle of the proposed green space buffer and would effectively bridge the gap between the existing and proposed communities at this point. This would fundamentally undermine the purpose of this policy objective. Moreover, the Land Use Plan submitted with the outline application⁴ to develop the majority of the Worcester South Urban Extension shows that open space would largely surround the appeal site. In this context, the appeal proposal would appear as a peninsula of development within the green space buffer around it. Whilst the existing nursery building is on the western side of Norton Road, that property has a spacious and low density character that sits comfortably within its surroundings. It is therefore not comparable to the dense and urban form of development that is proposed here.
12. The appeal site is not within the part of the urban extension identified as a 'Significant Gap' on Diagram 1. However, that area is clearly defined by existing built features and is surrounded by the M5, Norton Road, Hatfield Bank, and the existing built up area. In contrast, the green space buffer to the west of Norton Road is not defined by existing built features in the same way.
13. A number of different terms are used within Policy SWDP 45 and Diagram 1 to describe green areas within the urban extension, including 'green space', 'green space buffer', 'green infrastructure', and 'Local Green Network'. Whilst the distinction between some of these terms is unclear, that does not alter the unambiguous requirement for this part of the urban extension to incorporate open space of a scale that maintains the individual identities of both the new and existing communities.
14. It was put to me that even if the appeal proposal were at odds with the requirement to provide a green space buffer to the west of Norton Road, then it would still be consistent with Policy SWDP 45 when read as a whole. In this regard, the development would contribute towards affordable housing provision within the urban extension and would provide a significant area of public open space. However, whilst it would contribute to some of the wider objectives for the urban extension, it would clearly be contrary to a specific requirement for this part of the site.
15. My attention has been drawn to a dismissed appeal decision⁵ that was published in 2014, which also related to a housing development on this site. Whilst that application was in outline, the indicative layout showed 37 dwellings (40% of which were affordable) with no on-site open space provision. At that time, the South Worcester Development Plan had not yet been adopted,

³ Ref 10/02978/OU

⁴ Ref 13/0656/OUT

⁵ Ref APP/J1860/A/14/2214098

although it was at an advanced stage of preparation and the site-specific requirements of Policy SWDP 45 were known. The Inspector commented that *"the intrusion into the Local Green Infrastructure along Norton Road would frustrate its intention of providing separation between the communities, and could well unfavourably alter the balance between open land and development that underlies the sustainability of the proposed urban extension"*. Whilst some circumstances have changed since that decision was published, the Inspector's comments in relation to this policy requirement are still relevant. In this regard, the current appeal proposal would also frustrate the policy intention of providing separation between the communities. Whilst that Inspector commented that *"the impact of SWDP Policy 45(1) would be neutral at best, and accordingly it provides no weight in favour of the appeal"*, it is unclear whether that was in response to a separate argument put forward by the previous appellant. In any case, his comments relating to the site-specific requirements of Policy SWDP 45 are of direct relevance to this appeal, and I attach significant weight to them.

16. The Council's Planning Policy section were supportive of the appeal proposal in their consultation response at application stage. However, the Council ultimately decided to go against this advice, for the reasons set out in its Delegated Report. In any case, I have come to my own view on this matter.
17. For the above reasons, I conclude that the development would not be consistent with planning policy for the Worcester South Urban Extension. It would be contrary to Policies SWDP 21 and SWDP 45 of the South Worcester Development Plan (2016) in this regard.

Other Matters

18. The development is for 100% affordable housing, the majority of which would be social rented units. This is a significant benefit of the scheme. Moreover, it is agreed that permission Ref 13/0656/OUT would achieve only around 20% affordable housing, compared to the requirement in Policy SWDP 45 to provide up to 40% affordable housing within the urban extension.
19. The appeal site is in close proximity to a proposed primary school and local centre. It would also benefit from any new public transport connections associated with the urban extension. Accordingly, it would be in an accessible location once the urban extension is built out.
20. Policy SWDP 5 requires that new housing developments on greenfield sites in excess of 1 hectare provide 40% of the site as green infrastructure. In this case, however, around 20% of the site is brownfield land within the curtilage of the existing nursery. The proposed public open space to the south would occupy more than 40% of the greenfield part of the site, and I therefore consider that the development would accord with Policy SWDP 5.
21. The development would introduce new dwellings that would back onto the existing rear garden of Broomhall Coach House. However, these dwellings would be set back from the boundary and would be positioned away from the part of the garden closest to the property. This arrangement would ensure that no significant loss of privacy would occur.
22. My attention has been drawn to the emerging Norton-juxta-Kempsey Neighbourhood Plan. However, at the hearing it was clarified that the appeal

site is outside of the boundary for this Neighbourhood Plan area, and so it would not be subject to its policies.

Overall Balance and Conclusion

23. As set out above, I conclude that the development would significantly undermine the planning policy objectives for the Worcester South Urban Extension. It would be contrary to the development plan in this regard.
24. Set against this, the development would provide 27 affordable dwellings and an area of public open space, in a location that would be accessible once the urban extension is constructed. In addition, it would generate economic benefits through the creation of employment and the purchasing of materials and furnishings. The planning obligation would also provide contributions towards the provision of a traveller site, a Community Development Officer, public transport infrastructure, Home to School Transport, and cycle maps in the area. Moreover, the existing right of way through the site would be upgraded.
25. In these circumstances, I consider that the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits. Accordingly, the material considerations in this case do not indicate that the proposal should be determined other than in accordance with the development plan.
26. For the reasons given above I conclude that the appeal should be dismissed.

Thomas Hatfield

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

S Griffiths
J Bennett

RCA Regeneration
RCA Regeneration

FOR THE LOCAL PLANNING AUTHORITY:

M Rowles
T Roberts

Malvern Hills District Council
Planning Consultant

INTERESTED PARTIES:

Cllr R Gardener
Cllr M Pollard
D Harrison

Kempsey Parish Council
Norton-Juxta-Kempsey Parish Council

DOCUMENTS SUBMITTED AT THE HEARING

- 1 Proposed Site Layout for application Ref 20/01593/RM
- 2 Indicative Site Layout for application Ref 13/00710/OUT