



Appeal Decision

Site visit made on 2 June 2021

by M Aqbal BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 September 2021

Appeal Ref: APP/J1860/W/20/3262274

Omega, Martley Road, Lower Broadheath, Worcester WR2 6QG

- 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 Steve Hayes against the decision of Malvern Hills District Council.
 - The application Ref 20/00508/OUT, dated 17 April 2020, was refused by notice dated 6 August 2020.
 - The development proposed is outline application for the construction of 1no dormer bungalow dwelling, with all matters reserved (except access).
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Decision

1. The appeal is allowed and planning permission is granted for outline application for the construction of 1no dormer bungalow dwelling, with all matters reserved (except access), at Omega, Martley Road, Broadheath, Worcester WR2 6QG in accordance with the terms of the application Ref 20/00508/OUT, dated 17 April 2020, and subject to the Schedule of Conditions to this decision.

Preliminary Matters

2. The application was submitted in outline with only access to be determined at this stage. I have therefore dealt with the appeal on this basis. Drawings showing how the site could be laid out and developed for a single dwelling have been submitted but at this stage these are for illustrative purposes only and have been treated as such.
3. During the appeal, the parties have completed a Section 106 Agreement. The obligation in this agreement relates to a financial contribution towards off-site affordable housing provision. I shall return to this agreement later.
4. Since the appeal was lodged, a revised version of the National Planning Policy Framework, 2021 ('the Framework, 2021') has been released, the main parties have been consulted on this and I have taken this into account where relevant to my Decision.

Main Issues

5. The main issues are (i) whether the development would be in a suitable location for housing, taking into consideration local and national policies; (ii) the effects of the proposal on highway safety; and (iii) affordable housing provision.

Reasons

Suitability of location for housing

6. The appeal site lies outside the defined settlement boundary of Lower Broadheath. In accordance with Policy SWDP 2 of the South Worcestershire Development Plan ('SWDP') it is therefore classed as being within open countryside where under SWDP 2 (C) development is strictly controlled and only defined exemptions are allowed. The proposal does not fall into any of those exemptions.
7. Although the site falls within the Significant Gap, Policy SWDP 2 (D) of the SWDP does not preclude all development in the Significant Gap. The proposal would represent a small incursion into the Significant Gap. Moreover, the area to be developed is located at the end of a cluster of dwellings and forms the side garden to the host property. This side garden consists of a lawn area incorporating shrub and tree planting with some domestic paraphernalia. It is also contained by a combination of hedging and fencing from the open agricultural fields to the west and along its other boundaries by gardens and a Public Right of Way ('PRoW'). Therefore, its development would not significantly compromise the overarching aims of Policy SWDP 2 (D) of the SWDP which are to retain openness and maintain a clear separation between smaller settlements and urban areas in order to retain their individual identity.
8. I have had regard to the appeal decision at Laylocks Cottage¹ where the Inspector concluded that the appeal proposal would represent a significant extension of the development pattern in that area. However, whilst I do not have the full details of that proposal it related to a substantially greater quantum of development than the scheme before me and therefore is not directly comparable.
9. Whilst I note the Council's concern over the incremental erosion of the Significant Gap, I have determined the proposal before me on the site-specific circumstances of the appeal site and any other proposals for development within the Significant Gap would be assessed on their merits.
10. Nevertheless, the proposal would conflict with Policy SWDP 2 (C) of the SWDP, in terms of the position of the appeal site outside the development boundary and the failure to meet the exemptions in this Policy.

Highway safety

11. The appeal site is accessed via a single vehicle width access road which also forms part of the aforementioned PRoW. The visibility from this access road onto Martley Road (B4202) is substandard and there would appear to be little opportunity to improve this. Nevertheless, this access already serves four dwellings and on the information before me this arrangement operates safely.
12. Whilst there is insufficient room for two vehicles to pass along the access road, it is relatively straight, and its length is limited. Therefore, drivers approaching the access road from the B4202 would have sight of vehicles along it, thereby allowing these to pass before turning into the access. Consequently, this is unlikely to result in any reversing manoeuvres along the access road and PRoW.

¹ APP/J1860/W/19/3224257

13. The site is also in a location which is within reasonable walking distances of bus services, a public house, a shop and other community and recreation facilities located within Lower Broadheath. As such, it is likely that future occupiers would not be heavily reliant on the use of cars for their day-to-day needs.
14. Drawing on the above reasons and information before me, although the proposal would facilitate another dwelling using the access road and accessing the B4202, this would not result in any significant intensification to the detriment of highway safety.
15. I therefore find no conflict with Policy SWDP 21 of the SWDP, which along with other things requires that vehicular traffic from the development should be able to access the highway safely and the road network should have the capacity to accommodate the type and volume of traffic from the development. Accordingly, I also find no conflict with similar highway safety aims of the Framework, 2021.

Affordable Housing

16. In order to support appropriate provision of affordable housing in the District, criterion B. v. of Policy SWDP 15 of the SWDP requires that, on sites of fewer than five units, a financial contribution towards affordable housing will be sought.
17. I have also been referred to a Formal Position Statement dated June 2019 which explains the Council's current approach towards the provision of affordable housing. This states that: Within the Designated Rural Areas or for sites of 0.5ha or more: On sites of less than 5 dwellings a financial contribution towards local affordable housing provision should be made, based on the cost of providing the equivalent in value to 20% of the units as affordable housing on site. I note also that Paragraph 64 of the Framework, 2021 enables authorities to seek affordable housing contributions in designated rural areas.
18. The appeal site is located within Lower Broadheath which falls within a designated rural area and the submitted S106 Agreement provides an obligation for the provision of a financial contribution towards affordable housing, in accordance with the above requirements.
19. Therefore, the submitted obligation accords with Policy SWDP 15 of the SWDP. On the basis of the above reasons, the obligation is also directly related to the development, fairly and reasonably related in scale and kind to the development and therefore complies with the tests set out in the Framework, 2021, the advice in the Planning Practice Guidance ('PPG') and with Regulation 122 of The Community Infrastructure Levy Regulations 2010 (as amended).

Other considerations

20. Despite being verdant, due to its modest size, degree of containment and domestic character, the site makes a limited contribution towards the quality of the open countryside, which is largely defined by nearby fields. Furthermore, because of these characteristics and its proximity to a cluster of dwellings, the appeal site has a stronger physical relationship to the existing built development rather than the open countryside, which Policy SWDP 2 (C) of the SWDP is primarily designed to protect.
21. The new dwelling would be served off the existing access road and based on the illustrative drawings a dwelling could be located within the appeal site, to align

with the general wayside arrangement of dwellings along here. In addition, any views of the new dwelling from the surrounding area including the nearby PRow would be largely against the backdrop of existing development. Based on these factors and subject to the approval of reserved matters, a new dwelling could be accommodated within the appeal site, without having any discernible adverse impact upon the wider rural landscape of the area.

22. Whilst there is some dispute between the main parties over the Council's 5-year housing land supply position, even if I were to accept the Council's case that it can demonstrate a 5-year supply of deliverable housing land, housing requirements are set as minima and the development would still deliver an additional home. In these circumstances, the economic and social benefits derived from a single dwelling would be limited. However, this would still make a small contribution towards housing supply and supports Criterion A (ii)² of Policy SWDP 2 of the SWDP. Accordingly, this still attract some weight in favour of the proposal.
23. Lower Broadheath is a Category 1 settlement in the SWDP, which as I have already identified includes a range of services and facilities. Paragraph 79 of the Framework, 2021 states that housing in rural areas should be located where it will enhance or maintain the vitality of rural communities. Given the sites proximity to Lower Broadheath, the development would be consistent with this objective.
24. Policy SWDP 2 of the SWDP expressly states that part of the development strategy is to encourage the effective use and re-use of accessible, available and environmentally acceptable brownfield land. Criterion G also specifically states that encouragement will be given to the redevelopment of brownfield sites. Accordingly, the development would be consistent with this principle of Policy SWDP 2 of the SWDP and similar objectives of the Framework, 2021. Although the financial contribution towards affordable housing is provided to make the development acceptable in planning terms, it still supports affordable housing provision, which is a further benefit. As such, these and the above factors cumulatively attract significant weight in favour of the proposal.

Other matters

25. To the north east of the site is Wishingwell Cottage, a grade II listed dwelling. Based on my observations the setting of this heritage asset largely relates to its curtilage. I also note from the Council's report, that at the end of the 19th century there was a building, possibly a dwelling on the appeal site. Therefore, in principle, the quantum of a single dwelling would not harm the setting of this heritage asset. However, a further assessment of this would be required in considering the reserved matters (appearance, landscaping, layout and scale) if this appeal were to succeed.

Conditions

26. I have considered the conditions put forward by the Council in light of the requirements of the PPG and the Framework, 2021. In addition to the standard timescale conditions for the submission of reserved matters and implementation of the planning permission, I have imposed a condition specifying the relevant

² ii. Provide for and facilitate the delivery of sufficient housing to meet objectively assessed needs to 2030

plans as this provides certainty. A condition requiring a Written Scheme of Investigation is necessary to safeguard any archaeological interests of the site.

27. Conditions relating to the sites suitability for surface water drainage, including details of a drainage system and any soakaway are necessary in the interests of securing satisfactory drainage of the site and managing flood risk.
28. It is reasonable to impose a condition to secure a proportion of energy sources from renewable and/or low carbon measures to promote sustainable forms of development. To ensure the proposal incorporates satisfactory telecommunication facilities in line with Policy SWDP 26 of the SWDP, I have specified a condition requiring the provision of superfast broadband facilities or alternative solutions to serve the dwelling.
29. I have not imposed suggested requirements for details of proposed materials, boundary treatments or the provision, retention, maintenance, and the protection of landscaping, as these are matters that would be dealt with at reserved matters stage. Where necessary and in the interests of clarity and precision, I have altered the suggested conditions to better reflect the relevant guidance.

Planning balance and Conclusion

30. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that decisions on planning applications should be made in accordance with the development plan unless material considerations indicate otherwise.
31. There is conflict with the development plan in respect of the appeal site being outside the defined settlement boundary. However, I have not identified any other planning harm.
32. On the other hand, on the ground the appeal site has a greater affinity with existing built development than the open countryside and the proposal would provide modest, but tangible benefits. In particular, the development of an additional dwelling on a brownfield site in an accessible location. Although relatively limited in scale, there would be some additional social and economic benefits associated with the delivery of a new dwelling. These aspects of the proposal are also broadly consistent with some of the key principles of the development plan and the Framework, 2021.
33. Consequently, in my view, the aforementioned other considerations and benefits would outweigh the conflict with the development plan. Therefore, in the particular circumstances of this case there are material considerations which justify a decision other than in accordance with the development plan. I, therefore, conclude that the appeal should be allowed.

M Aqbal
INSPECTOR

Schedule of Conditions

1. Approval of the details of the appearance, landscaping, layout and scale (hereinafter called "the reserved matters") shall be obtained from the local planning authority in writing before any development is commenced.
2. Application for the approval of all reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission. The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.
3. This approval relates to Site Location and Block Plan 01A.
4. The development hereby permitted shall not commence until: (A) A programme of archaeological work, including a Written Scheme of Investigation (WSI), has been submitted to and approved by the local planning authority in writing. The WSI shall include an assessment of significance and research questions; and: 1) The programme and methodology of site investigation and recording. 2) The programme for post investigation assessment. 3) Provision to be made for analysis of the site investigation and recording. 4) Provision to be made for publication and dissemination of the analysis and records of the site investigation. 5) Provision to be made for archive deposition of the analysis and records of the site investigation. 6) Nomination of a competent person or persons/organisation to undertake the works set out within the WSI. (B) The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the WSI approved under condition (A) and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.
5. The development hereby permitted shall not commence until a percolation test has been carried out in accordance with BRE Digest 365, or such other equivalent guidance as may be agreed in writing by the local planning authority. The results of the percolation test shall be submitted to and agreed in writing by the local planning authority. If the percolation test results show that ground conditions are unsuitable for some, or all, types of infiltration device then an alternative method of surface water disposal will need to be submitted for approval. The agreed recommendations shall be implemented in full prior to the first occupation of the development.
6. The development hereby permitted shall not commence until details on the location of any proposed soakaway has been submitted to and agreed in writing by the local planning authority. Any soakaway should be located no less than 5m from any building or sub-structure and 2.0m from a site boundary. If soakaway drainage is not possible on this site, an alternative method of surface water disposal should be submitted for approval. The agreed recommendations shall be implemented in full prior to the first occupation of the development.
7. The development hereby permitted shall not commence until, details of renewable and/or low carbon energy generation measures shall be submitted to and approved in writing by the Local Planning Authority. The measures shall contribute to at least 10% of the predicted energy requirements of the

development. The details to be submitted shall include:- the overall predicted energy requirements of the approved development; - the predicted energy generation from the proposed renewable/low carbon energy measures; and - an implementation timetable for the proposed measures. The development shall be carried out in accordance with the approved details.

8. Prior to the first occupation of the dwelling hereby permitted, details of superfast broadband facilities or alternative solutions to serve the dwellings hereby approved shall be submitted to and approved in writing by the local planning authority. The submitted details shall include an implementation programme. The facilities shall be provided in accordance with the approved details.