



Appeal Decision

Site visit made on 28 June 2022

by Helen Smith BSc (Hons) MSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th August 2022

Appeal Ref: APP/J1860/W/22/3293557

The Oaks, Bell Lane, Lower Broadheath, Worcester 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 21/02165/FUL, dated 18 November 2021, was refused by notice dated 3 February 2022.
 - The development proposed is described as 3no. residential bungalows and associated works (resubmission Ref. 20/00621/FUL).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal site has been subject to a previous dismissed appeal decision in 2021 (APP/J1860/W/20/3260404) for a similar scheme to the proposal before me. However, the appellant has submitted new evidence in terms of the Landscape and Visual Appraisal and Significant Gap Appraisal (CLPD 043 R01), October 2021. I have had regard to it in reaching my decision.

Main Issues

3. The main issues are:
 - Whether the site is a suitable location for the proposed dwellings having regard to development plan policy.
 - The proposal's effect on the character and appearance of the area, including the effect on the Significant Gap.

Reasons

Suitability of Location

4. Policy SWDP2 of the South Worcestershire Development Plan (SWDP) (2016) sets out the development strategy and settlement hierarchy. The appeal site is not located within any defined development boundary and, consequently, is within the open countryside, albeit adjacent to existing residential development. Section C of Policy SWDP2 strictly controls development within open countryside, limited to certain exceptions.
5. Due to the appeal site's close proximity to other residential development, the proposal would not be isolated in the context of paragraph 80 of the National

Planning Policy Framework (Framework). In addition, there are services and facilities within a relatively short distance, which means the appeal site would be easily accessible to everyday needs by sustainable modes of transport. However, in respect of this main issue, the proposal conflicts with Policy SWDP2 of the SWDP (2016), as it does not meet any of the exceptions where development in the open countryside is considered appropriate.

6. Consequently, the proposal would not be a suitable location for the proposed dwellings.

Character and Appearance

7. The appeal site is a parcel of undeveloped land that is located within a designated Significant Gap. The purpose of the Significant Gap is to serve as a buffer or visual break between rural settlements and adjacent urban areas or to protect the character and setting of settlements, and to provide additional protection to open land that may be subject to development pressures.
8. The site makes an important contribution to the separation of built development and to the open countryside setting of the settlement. The converted barn and associated buildings beyond the appeal site are spatially separated from the existing built form within the settlement by the open space of the appeal site. Therefore, they do not form part of that built form and is instead seen as part of a more rural open context. The site's characteristically verdant, undeveloped nature emphasises a transition from the built form of the settlement to a more rural context beyond.
9. Although the physical distance between the two settlements of Upper and Lower Broadheath would not be affected, the proposal would remove the existing gap that creates a clear separation between the existing built form on the edge of the settlement and the converted barn and associated buildings, which are visibly stood apart. The proposal would therefore encroach into the open countryside on land that was previously free from built form and diminish the Significant Gap at this location.
10. The siting, scale and mass of the proposed dwellings would be out of keeping with the current undeveloped appearance of the site and the overriding spacious character of the area. Furthermore, the domestic garden paraphernalia that may be associated with the proposed dwellings would further erode the rural character and openness of the area.
11. During my site visit I observed open views across the site and from the surrounding area, despite the presence of some boundary vegetation. These included views from the adjacent public right of way, and from the road serving the new residential development located nearby. Whilst landscape planting could be designed to provide some degree of screening, the proposal would nevertheless be likely to be visible from the surrounding area, particularly when trees and vegetation are not in leaf during winter months. Such planting could not be guaranteed to survive or be maintained in the longer term.
12. The appellant has drawn my attention to previous approvals at the site of the converted barn and associated buildings located adjacent to the appeal site. These approvals are for a Class Q residential conversion (15/00801/PDU), a detached residential garage (19/01879/CU), a new agricultural building with hardstanding (20/00020/FUL, Appeal ref: 3248191) and more recently a new

stable building (21/00161/FUL). However, the nature of these agricultural buildings and garage in this rural context is different to that relating to the proposed new dwellings, which would introduce three dwellings onto undeveloped land.

13. A residential development in the vicinity of the appeal site that was approved by appeal has been highlighted to me (APP/J1860/W/16/3164684). The new dwellings allowed at appeal are enclosed on several sides by existing built form, which is different to the proposal before me that would extend the built form beyond the existing settlement edge and remove the existing gap to the converted barn. The full details of this approved development are not before me and the scheme is clearly of a different nature to the appeal proposal, so has limited bearing on the outcome of this appeal.
14. The appellant has drawn my attention to a previous appeal in respect of development outside of the defined development boundary and within the Significant Gap. Appeal decision (APP/J1860/W/20/3262274) refers to a site that was located at the end of a cluster of dwellings and formed the side garden to the host property. This is therefore not directly comparable to the proposal before me, which would encroach onto undeveloped land and diminish the Significant Gap. Each case must be decided on its own merits, and I am not fully aware of all the circumstances relating to this other appeal. Nonetheless, I have determined this appeal on its own merits, and its site-specific characteristics.
15. Consequently, the proposal would unacceptably harm the character and appearance of the area and unacceptably erode the designated Significant Gap. The proposal would therefore conflict with policies SWDP2(D), SWDP21 and SWDP25 of the SWDP (2016), which collectively seek to ensure new developments integrate with their surroundings and landscape character and retain the open character of Significant Gaps. The proposal would also fail to comply with paragraph 174 of the Framework which, amongst other things, seeks to ensure that new developments contribute to and enhance the natural environment by recognising the intrinsic character and beauty of the countryside.

Planning Balance

16. The proposal would deliver three bungalows that would make a small contribution to the identified need for accommodation suitable for older people. This would enable additional choice in this respect, albeit that there is no mechanism to secure them for that purpose. However, these benefits are modest relating to only 3 dwellings.
17. A completed Planning Obligation in the form of a unilateral undertaking has been submitted with the appeal. Within the obligation the owners of the appeal site undertake to pay £38,391.00 affordable housing contributions to the Council. However, I note the Council has not had the opportunity to comment on this obligation. As the proposal is of modest size, I attach moderate weight to the affordable housing contributions.
18. The proposal would help to maintain and enhance the viability of local services and facilities and would contribute to the vitality of the community. The proposal would also make an economic contribution during the construction period and subsequently from future occupiers in terms of council tax.

However, given the small scale of the proposal, these benefits would be modest.

19. The proposal would include the provision of renewable energy sources. However, there is nothing persuasive to demonstrate that these benefits would distinguish the design as being truly outstanding.
20. The proposed scheme would not have an adverse impact with regards to residential amenity, ecology, trees, highway safety, flooding and drainage. I also note the suggested biodiversity enhancements. However, these are neutral factors and do not weigh in favour of the proposal.
21. There is a dispute between the parties as to whether or not a five-year housing land supply (5YHLS) exists and I have been referred to previous cases where it was found that there was not a 5YHLS, albeit the most recent of those was decided over 10 months ago and 5 months prior to the appellant's appeal statement. Circumstances could have therefore changed since then, in the absence of any more up-to-date evidence. Nevertheless, even if I were to conclude there is a shortfall in the 5YHLS as suggested by the appellant, the harm I have found arising from this proposal is so significant that the adverse impacts of granting permission relating to the two main issues would significantly and demonstrably outweigh the benefits, when assessed against the policies and the Framework taken as a whole.

Conclusion

22. For the above reasons, the appeal is dismissed.

Helen Smith

INSPECTOR