
Appeal Decision

Site visit made on 18 April 2023

by O Marigold BSc DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10th May 2023

Appeal Ref: APP/J1860/W/22/3311462

Land off A1403, Leigh Sinton, Malvern

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant permission in principle.
 - The appeal is made by Lord H Flight against the decision of Malvern Hills District Council.
 - The application Ref M/22/1080/PIP, dated 15 July 2022, was refused by notice dated 16 September 2022.
 - The development proposed is permission in principle for up to 3 self-build dwellings
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposal is for a Permission in Principle (PIP). This consent route has two stages. The first stage establishes whether a site is suitable in principle, and the second stage, for Technical Details Consent (TDC), is where the detailed development proposals are assessed. The proposal is at the first stage and therefore I have considered the principle of the scheme.
3. The scope of the first stage is limited to location, land use and amount of development. PIP has been sought for up to three dwellings and I have determined the appeal on that basis, having regard to the relevant legislation and the Planning Practice Guidance (PPG).
4. Following the Council's determination of the appeal application, the Leigh and Bransford Neighbourhood Plan (NP) was made (adopted), in November 2022. The main parties were able to comment on this and I have therefore determined the appeal having regard to the newly adopted policies.

Main Issue

5. The main issue is whether the proposal would meet the strategy of the Development Plan, including its aim to safeguard the open countryside.

Reasons

6. Policy SWDP2 of the South Worcestershire Development Plan (DP), adopted February 2016, sets out the principles of the Council's strategy for development. This includes safeguarding of the open countryside, which it defines as land beyond any settlement boundary. The Policy makes clear that in such locations, development will be strictly controlled to certain limited types of development. Similarly, NP Policy LB/H/2 permits development outside of

the village Development Boundary, where it consists of housing that meets certain criteria, such as for affordable housing.

7. The DP classifies Leigh Sinton as a Category Two Village in the settlement hierarchy. The village has a range of services and facilities, including a shop, pub, school and local bus services. The appeal site is immediately adjacent to existing dwellings and close to others. However, it consists of undeveloped greenfield countryside, located immediately adjacent to, but outside of, the settlement boundary of Leigh Sinton.
8. The proposal would involve the erection of up to three dwellings, together with the paraphernalia associated with residential uses such as children's play equipment. As a result of the additional built form and domestication that would result from the proposal, the countryside formed by the appeal site would be developed and so would not be safeguarded. Although for self-build housing, the proposal would not accord with any of the types of limited development permitted by DP Policy SDWP2 or NP Policy LB/H/2.
9. For these reasons, the proposal would not meet the strategy of the Development Plan, including its aim to safeguard the open countryside, and so would conflict with DP Policy SWDP2 and NP Policy LB/H/2. For the same reasons, it would also conflict with the National Planning Policy Framework (the Framework), which makes clear that planning decisions should recognise the intrinsic character and beauty of the countryside. As such, I give this conflict significant negative weight.

Other Considerations

10. The Council accepts that it cannot currently demonstrate a five-year housing land supply. As such, the Council's housing policies including its settlement boundaries are deemed out of date. As set out in paragraph 11 of the Framework, it is necessary for me to determine whether the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits inherent in providing additional dwellings to assist the Council in addressing its undersupply. DP Policy SWDP1 makes a similar requirement.
11. The Self-Build and Custom Housebuilding Act 2015 requires the District Council to keep a register of individuals who are seeking to acquire serviced plots of land in their area for this purpose. The Housing and Planning Act 2016 added a duty to grant planning permission in respect of enough serviced plots of land to meet the demand for self-build and custom housebuilding in the Authority's area arising in each base period.
12. There is currently a substantial undersupply in the delivery of self-build dwellings District-wide. The appeal decision at Corner Mead, Droitwich¹ found that self-build housing is not a component of general market housing, and that the absence of reference in DP policies SWDP2 and SWDP14 to such housing meant that the tilted balance was engaged.
13. Even so, Framework Paragraph 14 makes clear that where the tilted balance is engaged, the adverse impact of allowing development that conflicts with a NP is likely to significantly and demonstrably outweigh the benefits, provided that the criteria of Framework Paragraph 14 are all satisfied. Of these, the main

¹ APP/H1840/W/19/3241879

parties dispute only whether 14(b) is met, and specifically whether the NP contains policies and allocations sufficient to meet its identified housing requirement.

14. The NP contains policies and allocations for housing. It does not make specific provision for self-build housing. The Inspector at Leigh Sinton Farms² gave considerable weight to the provision of self-build plots. However, this decision was made in the context of an un-made NP. The same is also true of the Council's decision to approve self-build development at Welland³, referred to by the appellant.
15. Some of those that make up the District-wide demand for self-build plots will undoubtedly want to live in the village. However, the NP was adopted using an evidence base that included a 2021 Housing Needs Survey⁴ which found only a small demand for self-build housing from those it surveyed. Moreover, permission has already been granted for multiple self-build dwellings locally, for instance at Leigh Sinton Farms.
16. As such, I have little substantive evidence of a level of need for self-build housing within the NP area that it should have taken into account, or that renders it obsolete. I therefore do not have sufficient reason to conclude that the policies and allocations of the recently made NP do not meet its identified housing requirement. On this basis, Framework Paragraph 14 is engaged.
17. The proposal would be close to the services and facilities in the village, on a small site that could be developed quickly. Future occupants of the proposal would make a positive social and economic contribution, as would its construction economically. The proposal would also be developed to a high environmental standard.
18. As identified by the PPG⁵, planning conditions or obligations cannot be used at this stage, and so could not secure the self-build nature of the proposal. However, the appellant would then have three years to find self-build developers and for such proposals to be secured at TDC stage. However, even as self-build dwellings, only up to three units are proposed. As such, the benefits of the proposal would be relatively minor and so I give them only moderate positive weight.

Planning Balance and Conclusion

19. 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 considerations indicate otherwise.
20. The proposal would conflict with the strategy of the Development Plan, including its aim to safeguard the open countryside, and that Framework Paragraph 14 is engaged. For the reasons given above, I consider that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole, and against DP Policy SWDP1.

² APP/J1860/W/21/3289643

³ LPA reference M/22/0655/PIP

⁴ At Appendix B to the NP

⁵ Paragraph: 022 Reference ID: 58-022-20180615

21. I have found that the proposal would conflict with the Development Plan, read as a whole. The material considerations in this case do not indicate a decision other than in accordance with it. This leads me to conclude that the appeal should be dismissed.

O Marigold

INSPECTOR