



Appeal Decision

Site visit made on 20 April 2023

by Rachel Hall BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 July 2023

Appeal Ref: APP/J1860/W/22/3312077

Land to rear of Park Acre, Church Lane, Hallow WR2 6PF

- 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 G Warr against the decision of Malvern Hills District Council.
 - The application Ref M/22/00256/OUT, dated 14 February 2022, was refused by notice dated 10 November 2022.
 - The development proposed is development of 2no. self-build dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The planning application was submitted in outline with all matters reserved. I have therefore taken any indication of reserved matters shown on the submitted drawings to be illustrative.

Main Issues

3. The main issues are:
 - whether the appeal site is an appropriate location for the proposed development, with regard to the development strategy of focusing development on urban areas where housing need and accessibility to public services is greatest; and
 - whether the proposal makes adequate provision for affordable housing.

Reasons

Location of development

4. Hallow is defined in the Local Plan as a category 1 village and is considered to provide a good range of services and facilities. However, it is not a matter in dispute between the main parties that the proposal conflicts with Policy SWDP2 part C of the South Worcestershire Development Plan (February 2016) (Local Plan). This is because the proposal does not meet any of the criteria for development on land outside of the settlement boundary. In addition, objective 1 of the Hallow Neighbourhood Development Plan (July 2021) (HNDP) seeks to promote housing growth within the settlement boundary and on allocated sites.
5. The supporting text to Policy HAL1 also advises that the HNDP does not seek to change the strategic approach to housing established through the Local Plan, with development focussed on the sites within the development boundaries of

urban areas and larger villages (paragraphs 6.1 and 6.2). Specifically in relation to Hallow it advises that the HNPD seeks to adhere to this strategic approach (paragraph 6.3). Therefore, notwithstanding that the HNPD does not include a specific policy on proposals for housing on sites outside of the settlement boundary, it is clear that the location of the proposal would conflict with the HNPD. Moreover, the cumulative effect of multiple similar schemes located outside of settlement boundaries, would significantly erode the development plan strategy as a whole.

6. Therefore I conclude that the appeal site is not an appropriate location for the proposed development, with regard to the development strategy of focusing development on urban areas where both housing need and accessibility to public services is greatest. Accordingly, the proposal would conflict with Policy SWDP2 of the Local Plan and the approach set out in objective 1 of the HNPD and supporting text (paragraphs 6.1-6.3).

Affordable Housing

7. The appellant submitted a Unilateral Undertaking during the course of the appeal which includes a commitment to pay an affordable housing contribution of £25,594 in accordance with the requirements of Policy SWDP15 of the Local Plan, prior to commencement of development. The Council had the opportunity to comment on the Unilateral Undertaking and it was subsequently amended in light of the Council's comments.
8. I am satisfied that the proposed contribution would be necessary to make the development acceptable in planning terms. Furthermore, on the evidence before me, it would be directly related, and fairly and reasonably related in scale and kind, to the development proposed. The obligation therefore meets the relevant tests set out in the National Planning Policy Framework (the Framework) and Regulation 122(2) of the Community Infrastructure Levy Regulations 2010. Therefore, the proposal would make adequate provision for affordable housing. As such, it would accord with Policy SWDP15 of the Local Plan.

Other Matters and Planning Balance

9. Notwithstanding that heritage matters did not form one of the Council's reasons for refusal, I am conscious of my statutory duty under section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 with respect to listed buildings. I have considered the effect of the proposed development on the setting of Park Farm Cottages and Park Farmhouse, both of which are grade II listed and located to the east of the site. However, in light of the degree of separation and nature of the surrounding context, I find that the proposal would be capable of being designed to avoid harm to the setting of those assets, as well as to the setting of the Conservation Area. The proposal would be capable of according with Policies SWDP6 and SWDP24 of the Local Plan which generally address the affect of proposals on the historic environment.
10. The Council's officer report for this proposal (dated November 2022) concludes that policies relating to housing provision are not out of date and therefore that paragraph 11d) of the Framework is not engaged. Whereas the appellant considers that paragraph 11d) of the Framework is engaged for two reasons. First, that the Council cannot demonstrate a five year supply of housing. And

second, that the development plan is silent on the provision of self-build housing and as such that relevant policies are out of date.

11. In relation to the Council's five year housing land supply position, I have had regard to evidence referenced by the appellant from other applications and appeals. Some of these decisions, for example two appeals at Rushwick (Ref APP/J1860/W/21/3267054 and Ref APP/J1860/W/19/3242098), are now in the region of two years old. As such, the extent to which their housing land supply evidence can be relied upon to provide an accurate position on the current five year supply position is highly limited. Whereas, the Council's officer report for a proposed self-build dwelling at Little Witley (Ref M/22/00563/OUT), dated 27 February 2023, was prepared subsequent to the Officer report for this appeal scheme. In that report the Council advises that it can no longer demonstrate a five year housing land supply.
12. In addition, the appellant refers to the Council's statement of case for an appeal relating to three self-build dwellings at Leigh Sinton. In that appeal, the Council accepted that the housing land supply was 4.92 years (Ref APP/J1860/W/22/3311462). That document also appears to have been completed subsequent to the Council's evidence for this appeal. Therefore evidence before me indicates that the Council is unable to demonstrate a five year supply of housing, albeit that in this more recent evidence the extent of the shortfall is not substantial.
13. Consequently, paragraph 11d)ii. of the Framework would be engaged on the basis that the Council is unable to demonstrate a five year supply of deliverable sites and therefore the policies most important for determining the application are out of date. Nevertheless, paragraph 14 of the Framework advises that where paragraph 11d) is engaged, the adverse impact of allowing development that conflicts with a neighbourhood plan is likely to significantly and demonstrably outweigh the benefits, provided that all of the criterion a) to d) of paragraph 14 are satisfied.
14. The HNBP was made on 20 July 2021. Therefore, although close to its two year anniversary, the HNBP became part of the development plan two years or less before the date of this appeal decision (criterion a)). Criterion b) requires that the neighbourhood plan contains policies and allocations to meet its identified housing requirement. Policy HAL1 of the HNBP allocates Land at Green Hill Lane, Hallow for a minimum of 40 dwellings. The HNBP confirms that the allocation will enable the housing requirement for Hallow to be met over the period 2021 to 2041.
15. The HNBP does not include a specific policy on self-build housing. Nevertheless, self-build accommodation is a form of housing with particular criteria relating to the parties involved in its design and construction. As such, and whether or not Policy HAL1 will subsequently become part of the emerging South Worcestershire Development Plan Review, criterion b) of Framework paragraph 14 is met for this appeal.
16. The Council submits that it has at least a three year supply of deliverable housing sites and that housing delivery was at least 45% of that required over the previous three years (criterion c and d). No robust evidence before me indicates otherwise. Consequently, paragraph 14 is relevant to the determination of this appeal.

17. The proposal would provide a limited amount of short-term employment through the construction of the development and some further modest benefits would result from the additional support to the vitality of the local community from the future occupants of the two houses. The development would achieve an incremental increase in housing supply in support of the Government objective of boosting the supply of homes, in an area with a lack of future provision. Small sites can make an important contribution to housing supply and can be developed relatively quickly. I afford this benefit moderate weight.
18. 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. The proposal would deliver two self-build homes in an area with an acknowledged shortfall. On the evidence before me the extent of the self-build shortfall is significant¹. The submitted Unilateral Undertaking would ensure that those homes would be delivered as self-build developments. Given the scale of the proposal which would amount to two additional self-build homes, I afford this benefit moderate weight.
19. The proposal would make a policy compliant contribution towards affordable housing. This is secured by the Unilateral Undertaking which gives certainty over its provision prior to commencement of development. Given that the proposal is for two dwellings and the contribution is proportional to the number of dwellings, I afford this benefit moderate weight. I am satisfied that the proposal would not harm the character and appearance of its surroundings. As such it would be capable of compliance with Policy HAL3 and HAL4 of the HNPD relating to design and landscape character. It would not harm the Green Belt. The site is accessible by non-car modes and accords with Policy SWDP4 of the Local Plan on managing travel demand. These are neutral considerations.
20. I have had regard to the applications and appeals that the appellant has made reference to in their evidence. The appeal at Leigh Sinton Farms (Ref APP/J1860/W/21/3289643) relates to a proposal for 45 residential units, including 12 self/custom built units and on-site affordable housing of 40 per cent. As a considerably larger scheme, the weight afforded to the benefits of that scheme are not comparable to this appeal scheme.
21. Reference is made to an Officer report for a scheme for 6 self-build units in Wychavon District (Ref 21/02215/OUT). In that report, significant weight was afforded to the delivery of self-build homes in light of the Council's unmet need. Whilst a relatively modest proposal it nonetheless comprised a scheme three times larger than this proposal and therefore that it attracted significant weight does not alter the moderate weight I have afforded here.
22. I note that in the appeal at Corner Mead, Newland Lane (Ref APP/H1840/W/19/3241879) the Inspector considered that the Local Plan was out of date due to it being silent on provision of self-build homes. In any event, in that case, no reference was made to any conflict with an adopted Neighbourhood Development Plan. Consequently the policy context for that scheme was not comparable to this appeal.

¹ As indicated in the Council's officer report for application Ref 21/02245/OUT, dated March 2022

23. I note the proposed permission in principle scheme at Worcester Road, Newland (Ref M/22/00658/PIP) for two self-build houses on land outside but adjoining the settlement boundary. Also, the proposal for a scheme outside a category 1 settlement boundary at Welland (Ref M/22/00655/PIP). However neither of the Council's officer reports for those schemes refer to an adopted Neighbourhood Plan. Consequently the policy context for those schemes appears notably different to this appeal. Reference is made to an appeal allowed in October 2022 for three self-build houses at Newnham Bridge (Ref APP/J1860/W/22/3300983). Whilst there are similarities with the circumstances of this case, again, the policy context for that scheme differs due to the absence of an adopted Neighbourhood Development Plan. Therefore those decisions do not alter my reasoning here.
24. Examples of other housing permissions in Hallow are provided to indicate that self-build housing does not necessarily come forward through larger housing proposals (Ref 14/01067/OUT; Ref 17/01040/RM; and Ref 21/01268/FUL). I have taken this into account in the weight afforded to the benefit of self-build provision arising from this appeal. I have had regard to comments made by local residents, including some letters of support. I have given careful consideration to these, but they do not lead me to a different overall conclusion on this appeal.
25. In the context of the development plan, despite some elements of compliance, I have found the location of the proposal to be contrary to the Policy SWDP2 of the Local Plan and objective 1 of the HNBP. Such conflict amounts to harm where the location of the proposal beyond the settlement would undermine the Council's plan-led approach to the delivery of housing. Evidence before me indicates that the Council's development strategy is currently failing to deliver sufficient homes to meet the five year housing land supply. As such, in the context of this appeal, Policy SWDP2 of the Local Plan and objective 1 of the HNBP are out of date. Moreover, policy provision to specifically support delivery of self and custom build housing is lacking. This reduces the weight to be afforded to this policy conflict here.
26. Nevertheless, in the circumstances of this appeal with the HNBP having been adopted within the last two years and where the extent of the shortfall against the five year housing land supply has not been shown to be substantial, such conflict with the development plan attracts considerable weight. The proposed development would conflict with the development plan as a whole.
27. In light of paragraph 14 of the Framework I find that the considerable harm arising from the proposal's conflict with the development plan, including the HNBP, would significantly and demonstrably outweigh the modest benefits when assessed against the policies in the Framework taken as a whole. Therefore, the proposed development would conflict with the development plan and there are no material considerations, including the approach of the Framework, worthy of sufficient weight that would indicate a decision other than in accordance with it.

Conclusion

28. For the reasons given, the appeal should be dismissed.

Rachel Hall INSPECTOR