



Appeal Decision

Site visit made on 24 October 2023

by O Marigold BSc DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st November 2023

Appeal Ref: APP/H1840/W/23/3321573

Land Off Church Lane, Norton, Worcester

- 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 Mr David Pullen against the decision of Wychavon District Council.
 - The application Ref W/22/01835/PIP, dated 14 August 2022, was refused by notice dated 8 March 2023.
 - The development proposed is Permission in Principle for up to 4 dwellings.
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Decision

1. The appeal is allowed and permission in principle is granted for up to 4 dwellings at Land Off Church Lane, Norton, Worcester, in accordance with the terms of the application Ref W/22/01835/PIP, dated 14 August 2022.

Applications for costs

2. An application for costs was made by Mr David Pullen against Wychavon District Council. This application is the subject of a separate Decision.

Procedural Matters

3. The proposal is for permission in principle. The Planning Practice Guidance (PPG) advises that this is an alternative way of obtaining planning permission for housing-led development. This has two stages. The first, Permission in Principle, establishes whether a site is suitable in-principle. The second stage, for Technical Details Consent (TDC), is when the detailed development proposals are assessed. This appeal relates to the first of these two stages.
4. The scope of the considerations for permission in principle is limited to location, land use and the amount of development permitted. All other matters are considered as part of a subsequent TDC application if Permission in Principle is granted. In this case, Permission in Principle has been sought for between two and four dwellings and I have determined the appeal on this basis, having regard to the relevant legislation and the PPG.

Main Issue

5. The main issue is whether the effect of noise on the future living conditions of occupiers of the proposal is a relevant consideration at this stage.

Reasons

6. The site consists of an area of undeveloped grassland off Church Lane, adjacent to existing buildings and dwellings, and close to an elevated section of

the M5 motorway. The site is located within a Noise Important Area, a hotspot with a high level of noise at residential locations.

7. No specific layout for the position of the dwellings within the site has been provided. Nevertheless, the Council's Noise and Nuisance consultee has objected to the proposal because of traffic noise from the M5 and its potential effect on the living conditions of future occupiers of the proposal. The consultee states that, even with appropriate glazing and alternative ventilation, adequate internal mitigation may not be possible.
8. Policy SWDP21 of the South Worcestershire Development Plan (DP), adopted February 2016, makes clear that development will need to integrate effectively with its surroundings in terms of form and function. DP Policy SWDP31 requires proposals to be designed to avoid significant adverse impacts to human health and wellbeing.
9. The PPG advises that noise can in certain cases cause material changes in the behaviour of occupiers, impacting on health and quality of life. Section 5 of the South Worcestershire Design Guide Supplementary Planning Document (SPD), adopted March 2018, provides advice on design principles. It makes clear that mitigation measures must be in place to reduce the impact caused by conflicting uses, for example by noise insulation, and that as far as possible private amenity space should be protected from noise.
10. However, as an application for Permission in Principle, assessment of the proposal at this stage is limited to a high-level assessment of location, land use and the amount of development proposed. As stated in the PPG¹, other matters should be considered at TDC stage and local authorities cannot require information for Permission in Principle applications in the same way they can for applications for planning permission.
11. Therefore, whether the proposal can be designed to provide adequate mitigation against noise, as required by the planning policy framework identified above, is not a matter for this stage. It would instead be open to the Council to require detailed noise information at TDC stage and to refuse such an application at that stage if adequate living conditions for future occupiers cannot be demonstrated.
12. For this reason, I conclude that the effect of noise on the future living conditions of occupiers of the proposal is not a relevant consideration at this stage. As such, the proposal would not conflict with DP Policies SWDP21, SWDP31, the SPD or the PPG.

Other Matters

13. In respect of location and land use, the site is outside of any village settlement boundary within the Norton-juxta-Kempsey Neighbourhood Plan (NP), adopted December 2021. Even so, its Policy NJK10 supports new infill housing within the designated development boundaries of the DP.
14. The site is within the boundaries of the Broomhall Community and Norton Barracks Community (Worcester South urban extension) site allocation of DP Policy SWDP45/1. As such, the proposal consists of new infill housing within a

¹ Paragraph: 012 Reference ID: 58-012-20180615

designated development boundary. It would therefore comply with NP Policy NJK10.

15. Part of the site is identified by DP Policy SWDP45/1 as being within a Significant Gap, where the policy permits only uses that maintain the openness of the land. However, part of the site of the proposal is outside of this Gap. Layout is not a matter that falls for consideration at this stage, and it is therefore possible that the proposal would not breach the requirements of DP Policy SWDP45/1 in respect of the Gap. This is not therefore a reason to withhold permission in principle.
16. I understand that part of the site is designated as a traditional orchard by Natural England, and that a Habitat Action Plan seeks to restore and manage orchards. However, this designation only covers part of the site and so the proposal may not adversely affect the orchard. Furthermore, detailed tree and ecological information would be submitted and considered at TDC stage, rather than at this stage. The suitability or otherwise of the access onto the highway is also a matter for the later TDC stage.

Conclusion

17. For the reasons given above, I conclude that permission in principle should be allowed.

O Marigold

INSPECTOR