



Appeal Decision

Site visit made on 5 December 2023

by K Stephens BSc (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 December 2023

Appeal Ref: APP/J1860/W/23/3323212

Land At (OS 7844 3290), Van Der Hills Nurseries, Pendock GL19 3PG

- 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 Mrs K Hill against the decision of Malvern Hills District Council.
 - The application Ref M/22/01458/PIP, dated 30 September 2022, was refused by notice dated 21 December 2022.
 - The development proposed is described as "Permission in principle - erection of 4 no. dwellings."
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal is for permission in principle. The Planning Practice Guidance advises that this is an alternative way of obtaining planning permission for housing-led development. It is a two-stage process: the first stage (permission in principle stage) establishes whether the site is suitable in-principle, and the second stage (technical details consent) is when the detailed development proposals are assessed. Full planning permission does not exist unless both the permission in principle and the technical details consent are approved. This appeal relates to the first of these two stages. The scope of the considerations in an application for permission in principle is limited to matters of location, land use and the amount of development.
3. During the course of the appeal a revised National Planning Policy Framework (the Framework) was published on 5 September 2023 and replaces the previous version published in July 2021. However, as any policies in the Framework that are material to this decision have not fundamentally changed, I am satisfied that this has not prejudiced any party and I have had regard to the latest version in reaching my decision.
4. Since the application was determined and following a number of recent appeal decisions the Council has accepted it can no longer demonstrate a 5-year supply of deliverable housing land.

Main Issue

5. The main issue in this appeal is whether the appeal site would be suitable for housing development having regard to its location, land use and amount of development.

Reasons

6. Policy SWDP 2 of the South Worcestershire Development Plan (the Plan) sets out the Council's development strategy to promote sustainable patterns of development by focusing most development on urban areas such as Worcester and Malvern where housing need is greatest and to safeguard and (wherever possible) enhance the open countryside. A settlement hierarchy is set out in Table 2 of the policy, with settlements categorised based in part on the range of services and facilities they have. Windfall development will be assessed in accordance with the settlement hierarchy and is expected to be infill development within the defined development boundaries.
7. For the purposes of Policy SWDP 2, land beyond a development boundary is defined as open countryside. In the countryside development will be strictly controlled and limited to rural workers' dwellings, employment development, rural exception sites, buildings for agriculture and forestry, replacement dwellings, renewable energy projects and development specifically permitted by other Plan policies.
8. Plan Policy SWDP 4 seeks, amongst other things, to promote development that will minimise the demand for travel by private cars and offer genuinely sustainable travel choices.
9. These policies are broadly consistent with the Framework, which states that to promote sustainable development in the rural areas housing should be located where it will enhance or maintain the vitality of rural communities; seek opportunities to promote walking, cycling and public transport; limit the need to travel, and offer a genuine choice of transport modes. At the same time the Framework acknowledges that opportunities to maximise sustainable transport solutions will vary between urban and rural areas and should be taken into account in decision-making.
10. Pendock is a Category 3 village in the Rural Area, deemed suitable in principle to meet locally identified housing and employment needs with market and affordable housing because they provide a range of services and facilities.
11. There is no dispute between the parties that the appeal site lies outside the defined development boundary of Pendock. Nonetheless, the location of the site cannot be described as isolated as it sits to the rear of existing dwellings in the village. The proposed open market dwellings would not fall within any of the policy exceptions for countryside development. Hence the proposal would conflict with Plan Policy SWDP 2.
12. In terms of services and facilities, Pendock has a primary school located about 600 metres to the east of the village. I saw there was a pavement from the crossroads to the school to allow access on foot. There was also a church. However, since the application was determined the village stores and post office have closed, which I saw to be the case on my visit.
13. The Council state there are no near bus stops or other public transport links. I saw a bus stop in the village with a poster saying 'Worcestershire on Demand' inviting various phone applications to be downloaded, but there was nothing to indicate service routes or frequency and I have not been provided with any further information about bus services in Pendock.

14. Apart from the primary school, there are no other day-to-day services or facilities in Pendock. Future occupants of the proposed dwellings, which may well include families with children, would still need to access day-to-day services and facilities such as shops, plus other services and facilities such as doctors and dentists, secondary education and employment, even if some of these trips could be linked.
15. Without a regular public transport service, or a range of services and facilities within reasonable walking or cycling distance, future residents would not have a genuine choice of sustainable modes of transport to access such services and facilities. As a result, residents would have to travel and be reliant on the private car for even basic day-to-day services and facilities. This would be contrary to Plan Policy SWDP 4.
16. Drawing together the above points, the appeal proposal would undermine the Council's spatial and settlement strategy for the location of housing and promoting sustainable patterns of development. It would also result in future residents being reliant on the car. Hence the appeal site would not be a suitable location for housing. Accordingly, the proposed development would be contrary to Plan Policies SWDP 2 and SWDP 4, whose aims are outlined above.
17. Plan Policy SWDP 21 mainly relates to how the design of a proposal would integrate with its surroundings in terms of matters such as design, neighbouring amenity, scale, height and massing. As the appearance and layout of the dwellings would be assessed at the technical details stage it is not directly relevant to the main issue.

Other Matters

18. I am aware an outline application for 4 dwellings was approved for the site in April 2016 when the Council could not demonstrate a 5-year housing land supply, and that a reserved matters application was not submitted in time for a number of reasons. A re-submission of the outline application was refused in 2020, as were a number of other subsequent applications on the site, under the then new South Worcestershire Development Plan and the revised Framework and when the Council was able to demonstrate it had a 5-year housing land supply.
19. My attention has been drawn to a permission in principle appeal decision at Leigh Sinton¹ where the Inspector allowed 2-3 dwellings on a site outside but close to the settlement boundary. I note that Leigh Sinton is a Category 2 settlement, higher up the hierarchy than Pendock, and that at the time of the appeal its Neighbourhood Plan was intending to re-draw the settlement boundary to include the appeal site. Furthermore, that village had a greater range of day-to-day services accessible on foot. Whilst other appeal decisions are capable of being material considerations, all decisions turn on their own particular circumstances based on the facts before the Inspector at the time. For the reasons above I find the example is not directly comparable to the appeal proposal before me, which in any event I must consider on its own merits.

¹ Appeal Ref: APP/J1860/W/21/3288103 dated 1 June 2022

Planning Balance and Conclusion

20. A decision on whether to grant permission in principle must be made in accordance with the relevant policies in the development plan, unless there are material considerations, such as those in the Framework, which indicate otherwise.
21. The Council confirms that it cannot demonstrate a 5-year supply of housing land. Thus paragraph 11 of the Framework is engaged. This means that planning permission should be granted, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
22. The proposed 4 dwellings would make a significant contribution to meeting the Council's unmet housing need and would accord with one of the Framework's aims of boosting housing supply. There would be some modest associated socio-economic benefits arising from the construction of the dwellings and their longer-term contribution to the local area. The previous outline planning permission approved back in 2016 has expired and since then the shop and post office have closed such that circumstances have changed. Hence, the previous outline decision can only carry very little weight.
23. On the other hand the proposal would undermine the Framework's aim of promoting sustainable patterns of development including in rural areas where development is located where it will enhance or maintain the vitality of rural communities. In addition, the proposal would not accord with other Framework aims to promote walking, cycling and use of public transport, limit the need to travel or offer a genuine choice of transport modes. These adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
24. The proposal would be contrary to development plan Policies SWDP 2 and SWDP 4. To allow the proposal against the development plan would undermine the Council's spatial strategy for the location of housing and could be too easily repeated elsewhere in the district. I am also mindful that the Framework recognises that the planning system should be genuinely plan-led. Hence, to develop the appeal site as proposed would be at odds with, and would undermine public confidence in, the plan-led system.
25. In conclusion, I have found the proposal would conflict with local policies guiding the location of housing and reducing the need to travel and therefore it would conflict with the development plan as a whole. The material considerations I outline above, including the Framework, are not sufficient to outweigh this conflict.
26. Accordingly, the appeal should be dismissed.

K. Stephens
INSPECTOR