



Appeal Decisions

Site visit made on 5 December 2023

by K Stephens BSc (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 January 2023

Appeal A Ref: APP/J1860/W/23/3324118

Peachley Court Farm, Peachley Lane, Lower Broadheath, Worcestershire WR2 6QR

- 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 Roger Pugh against the decision of Malvern Hills District Council.
 - The application Ref M/22/01797/FUL, dated 6 December 2022, was refused by notice dated 6 February 2023.
 - The development proposed is "Proposed two storey dwelling (Plot B)."
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Appeal B Ref: APP/J1860/W/23/3324119

Peachley Court Farm, Peachley Lane, Lower Broadheath, Worcestershire WR2 6QR

- 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 Roger Pugh against the decision of Malvern Hills District Council.
 - The application Ref M/22/01795/FUL, dated 6 December 2022, was refused by notice dated 30 January 2023.
 - The development proposed is "Proposed one and a half storey (self-build) dwelling (Plot A)."
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Decision

1. Appeal A (for Plot B) is dismissed.
2. Appeal B (for Plot A) is dismissed.

Preliminary Matters

3. Whilst I shall consider each proposal on its individual merits, I will deal with the two appeals in a single document to avoid duplication given that both schemes are located at the same host property (Peachley Court Farm), have the same reasons for refusal and share much in common. Throughout the decision, I shall refer to the proposals as Appeal A and Appeal B in accordance with the way they are listed in the banner headers above.
4. Appeal A (for plot B) is described as a two storey dwelling. However it is clear from the submitted plans that whilst there is accommodation over two floors, the dwelling would be one storey to eaves with accommodation in the roof space in the form of dormer windows. Indeed it would not be unsimilar to the proposed one and half storey dwelling for Appeal B on plot A.

5. During the course of the appeal, and in light of an appeal decision¹ at Kempsey, the Council has accepted that it can no longer demonstrate it has a 5 year supply of housing land – instead it has 3.7 years. Nonetheless, both appeal sites remain outside the settlement development boundary and in the open countryside. This matter therefore remains a reason for refusal, and I shall consider it as a main issue.
6. In response to the third reason for refusal, the appellant has now submitted a completed and dated planning obligation² for each appeal by way of a Unilateral Undertaking (the 'UU').
7. During the course of the appeal the National Planning Policy Framework (the Framework) was revised on 19 December 2023. 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.

Main Issues

8. The main issues for both appeals are:
 - Whether the proposed residential developments would accord with local policies and national guidance with particular regard to location,
 - The effect of the proposals on the character and appearance of the area, and
 - Whether the proposals make adequate provision for affordable housing.

Reasons

Housing strategy for the area

9. Policy SWDP2 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 Worcester and other urban areas and (wherever possible) enhance the open countryside. A settlement hierarchy is set out in Table 2 of the policy indicating where some growth will be directed, 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. For Category 1, 2 and 3 villages this is expected to be in the form of infill development within the defined development boundaries.
10. Plan Policy SWDP59 lists the village hierarchy allocations, including a site for 6 dwellings at Peachley Court Farm (not the appeal sites). Policy SWDP59 goes on to state that in addition to the allocations, new housing will need to comply with Plan Policy SWDP2B (on windfall development), and the sites should be located within the defined development boundary or be other prescribed forms of development.
11. For policy purposes, Policy SWDP2 states that land beyond any development boundary is defined as open countryside, where development will be strictly controlled and limited to rural workers' dwellings, employment development,

¹ Appeal ref: APP/J1860/W/22/3313440 dated 14 August 2023

² Pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended)

rural exception sites, buildings for agriculture and forestry, replacement dwellings, renewable energy projects and development specifically permitted by other Plan policies.

12. These development plan 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.
13. Lower Broadheath is a Category 1 village. The appellant does not dispute that both sites lie outside but close to the defined development boundary of Lower Broadheath, which runs along the south side of Peachley Lane, and that the sites are not allocated. A development boundary is a planning tool to guide the location of development and does not necessarily correspond to, or reflect, the physical or administrative limits of the village.
14. I saw on my visit that the appeal sites are located close to the development boundary of the village and other residential properties and located a similar distance to services and facilities as other nearby dwellings. I therefore concur with the main parties that the sites are not 'isolated'. Nonetheless, as the sites lie outside the defined village boundary, they are regarded as being in the countryside for policy purposes. Neither proposal is put forward as any of the countryside exceptions. Accordingly, both proposed dwellings would be contrary to Plan Policies SWDP2 and SWDP59.
15. The appellant draws my attention to a proposed review of the development boundary around Lower Broadheath as part of the wider review of the Plan, although I am advised the review has yet to go through Examination and therefore attracts limited weight. The submitted map extract shows the boundary could potentially be revised to include the residential development constructed to the east of Peachley Court Farm, but it would not include Peachley Court Farm or the two appeal sites.

Character and appearance

16. The host property is a large dormer-style brick and tile dwelling set back from the road with access off Peachley Lane. There is no demarcation of a garden with physical boundaries, apart from patio areas in close proximity to the house and a nominal flower bed at the front. The area around the existing dwelling is grassed and open. Both appeal sites are located within this wide open field area, which occupies a generally elevated position above the B4204 to the west and slopes down to the open gently undulating countryside to the north and west. Hence both appeal sites positively contribute to the rural character and appearance of the area. Furthermore, the host property is the last property on Peachley Lane on the corner with the B4204. There are hedgerows along the boundary with Peachley Lane and the B2404, such that Plot A (for Appeal B) also positively contributes to the rural character and appearance of this part of the village.
17. The dwelling for Appeal A (Plot B) would occupy what is currently hardstanding with a number of shipping containers located at the rear of the host property. Access would be off the B4204 via the track that currently serves the Peachley Court Business Park, caravan storage and Peachley Leisure Caravan Park. Whilst the proposed dwelling on Plot B would be read to some extent against the new housing built on elevated land to the east of the host property, it

would be physically separated from it by another track along the site's eastern boundary. The result would be a single plot extending built development further into the open field with no visual or physical connection with Peachley Lane or the village.

18. The dwelling for Appeal B (Plot A) would sit forward of the existing dwelling and hence closer to the junction of Peachley Lane and the B4204. It would be accessed via the existing access off Peachley Lane that already serves the existing dwelling and the live/work unit that is under construction. Through the leafless hedgerow along the B4204, I could see the existing dwelling and the live/work unit. Being elevated above, and closer to the B4204, views of the proposed dwelling would be more likely. I accept views would be glimpsed when driving past and would be seasonally restricted by foliage. Nonetheless, the proposed dwelling would represent new built development on open land closer to the edge of the village. Hence it would reduce the rural character and appearance of this part of the village, even though existing hedgerow along Peachley Lane and the B4204 would be retained.
19. Approaching both sites from Martley the roadside hedgerows largely serve to restrict views of the site and the new housing development to the east of Peachley Court Farm to some extent. However, from the track that leads to the Business Park, caravan storage and Peachley Leisure Caravan Park, there are open views of the wider parcel of land. Whilst both dwellings would be read against this existing built development, the exposed, elevated and open nature of the land surrounding the existing dwelling would mean both proposed dwellings would be clearly and unduly and appear as a physical encroachment into the surrounding countryside. Even though Plot B would not extend beyond the end of the new housing development adjacent Peachley Court Farm, this would not mitigate against the encroachment of development into the surrounding countryside. Whilst the dwelling for Appeal B (Plot A) would be sited closer to Peachley Lane, it would nonetheless be read against the existing hedgerow and trees and still appear as a countryside encroachment.
20. There is no demarcated garden boundary to the host property, apart from the shallow sloping edge of the made up ground, such that both appeal sites effectively form part of the same wider open field. The resulting domestic paraphernalia would compound the countryside encroachment. The submitted plans show new native hedgerows would be planted around each proposed dwelling. These would be arbitrary boundaries that would not follow any existing physical features on the ground or within the wider field. The proposed new hedgerows would have no significant mitigating effect for some time as they mature and grow.
21. Both dwellings would be one and a half storeys and hence broadly similar to the existing dwelling. I have no reason to doubt they would not be of a high build quality. The Council raised no objection to their design, and I have no reason to take a different view.
22. Nonetheless, from my observations both appeal sites have a greater affinity with the surrounding field and countryside. Neither plot would represent a logical 'rounding off' of the village but would be encroachment into the surrounding countryside and harm the rural character and appearance of the area and setting of the village. Accordingly, both proposed dwellings would be contrary to Plan Policies SWDP21 and 25. Together these seek to ensure high

quality design which relates to its surroundings and settlement character and appropriately integrates with the landscape setting.

Affordable housing

23. Under Plan Policy SWDP15 proposals should seek to meet affordable housing needs either on site or by way of a financial contribution for off-site provision. Neither proposed dwelling is put forward as an affordable dwelling and there is no dispute between the parties that a financial contribution is required instead for each proposed dwelling and that the financial contribution would need to be secured by means of a legal agreement. The off-site affordable housing contribution for each proposed dwelling, and hence each appeal, has been calculated as £12,797.
24. I understand a draft Unilateral Undertaking (UU) was drawn up for each appeal and submitted to the Council prior to determination of the applications. For whatever reason the Council's comments on the draft UUs were only presented to the appellant after the applications were refused and during the appeals.
25. Nonetheless, the appellant has taken the Council's comments on board and produced a completed, signed and dated UU for each appeal that would secure the required financial contributions. For Appeal B (Plot A) the UU also includes provision for the proposed self-build dwelling. The Council has not contested the UUs.
26. I consider the affordable housing financial contribution for each proposed dwelling would meet the tests in section 122 of the Community Infrastructure Levy Regulations 2010 (as amended) and the guidance in paragraph 57 of the Framework as it would be necessary, relevant and fairly related to the proposed development given that neither proposed dwelling would be affordable.
27. Therefore for the reasons above I conclude that both proposals make appropriate provision for affordable housing. Accordingly, the proposals under Appeal A and Appeal B would accord with Plan Policy SWDP15. The proposals would also accord with the Framework and the national Planning Practice Guidance on this matter.

Other Matters

28. My attention has been drawn to a number of appeal decisions allowed for housing in Lower Broadheath outside the defined development boundary. The decision for development at The Oaks³ is for a replacement dwelling and 4 new dwellings. That Inspector concluded the site had greater affinity with the residential development that surrounded it on three sides and would not affect the visual openness of the countryside and found the benefits to outweigh the policy conflict. The decision for Martley Road⁴ was for a dwelling in a contained side garden to the host property, again with closer affinity to surrounding residential development than with the countryside. I do not find this to be the case for the appeals before me.
29. I do not have the full details of these proposals, but from my site visit observations the current appeal sites occupy different locations and site

³ Appeal ref: APP/J1860/W/16/3164684 dated 6 April 2017

⁴ Appeal ref: APP/J1860/W/20/3262274 dated 15 September 2021

contexts, and as such I find the examples are not directly comparable to the appeals before me. Whilst consistency in decision making is important, all appeal decisions turn on their own particular circumstances based on the facts before each Inspector at the time. Therefore, I must determine the appeals on their own merits.

30. I acknowledge the appellant's concerns with the Council's handling of the application, but in reaching my decision I have been concerned only with the planning merits of the case.

Planning Balance and Conclusion

31. A decision on whether to grant permission 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.
32. The Council confirms that it cannot demonstrate a five-year supply of deliverable housing sites and thus paragraph 11d) 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.
33. Each appeal proposal would create an additional dwelling that would help reduce the Council's housing deficit and would accord with one of the Framework's aims of boosting housing supply. However, given that each appeal would be for a single dwelling this would have only moderate weight. Both proposals would also provide some modest associated socio-economic benefits that would arise from the construction of each dwelling and their longer-term additional support to the vitality of the local community from the future occupiers. However, I am not aware that the services and facilities in Lower Broadhead are in danger of demise and that the two appeal dwellings would save them from closure. There would be some biodiversity gains with the intended planting of native species hedgerows. Hence there are some notable benefits that weigh in favour of each appeal scheme.
34. Appeal B would also see the provision of a single self-build dwelling on Plot A. This is encouraged by the Framework which supports small sites coming forward for self-build or custom housing⁵ (SBCH) and expects policies to reflect the size, type and tenure of housing for different groups, including people wishing to commission or build their own homes. The appellant does not indicate if he is on the SBCH Register and I have not been advised of the supply and demand position of SBCH across the district. I have not been directed to any specific SBCH policies in the Plan, although the Council refers to Plan Policy SWDP14 as providing for a range of house sizes, types and tenures to reflect housing need for different groups. The lack of specific SBCH policies and the provision of a SBCH unit on Plot A, which would be secured by a UU, would attract additional weight in the balance for Appeal B.
35. Even if I found the site for Appeal A (Plot B) to be previously developed land this does not trump other considerations in the planning balance. The presence of the shipping containers and the more run down nature of this site is not a reason to develop with housing, as the site could be tidied up and the shipping containers removed at any time. A dwelling on this site may reduce comings

⁵ The Self-Build and Custom Housebuilding Act 2015 (as amended by the Housing and Planning Act 2016) and the Self-build and Custom Housebuilding Regulations make no distinction between Self-Build or Custom Housing.

and goings but I have not been provided with any substantive evidence of their nature or extent, or that the shipping containers and any activities associated with them is a 'bad neighbour'.

36. The financial contributions towards off-site affordable housing provision for both appeals are not a benefit, as they serve only to off-set the impact of the development.
37. On the other hand both proposals would undermine the Framework's aim of promoting sustainable development including in rural areas. I have also found that each appeal proposal would harm to the character and appearance of the area, which would be contrary to the Framework's aims of achieving good design that is sympathetic to its surroundings. These adverse impacts of granting planning permission would, in my view, significantly and demonstrably outweigh the benefits I outline above when assessed against the policies in the Framework taken as a whole.
38. Both appeal proposals would be contrary to the development plan and Plan Policies SWDP2 and SWDP59. To allow the proposals against the development plan would undermine the delivery of the Council's housing strategy and of achieving sustainable patterns of development and could be too easily repeated elsewhere across the district. I am also mindful that the Framework recognises that the planning system should be genuinely plan-led. Hence, to develop the appeal sites as proposed would be at odds with, and would undermine public confidence in, the plan-led system.
39. In conclusion, I have found both development proposals would conflict with local policies guiding the sustainable location of housing and safeguarding the countryside and so would conflict with the development plan as a whole. The material considerations I outline above, including the Framework, and provision of a self-build unit for Appeal B, are not sufficient to outweigh this conflict.
40. Accordingly Appeal A and Appeal B should be dismissed.

K Stephens
INSPECTOR