



Appeal Decision

Site visit made on 16 January 2024

by David Wyborn BSc(Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 January 2024

Appeal Ref: APP/J1860/W/23/3325897

Old Police Station¹, Hereford Road, Leigh Sinton, Worcestershire WR13 5EA

- 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 Ms Helen Davis against the decision of Malvern Hills District Council.
 - The application Ref M/23/00330/OUT, dated 6 March 2023, was refused by notice dated 19 June 2023.
 - The development proposed is an outline application for a single new dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of the development on the application form was extensive and included a justification for the proposal. I have used a shortened version of the description in the heading above from the application form and I am satisfied that this accurately reflects the intended development.
3. The application has been made in outline with access, layout and scale for consideration at this stage. Matters concerning appearance and landscaping have been reserved. The application has been accompanied by a plan which shows the combined layout, elevations and floorplans for the proposed dwelling. I have considered those matters which depict the appearance and landscaping as indicative as to what the appellant has in mind for the development.
4. A revised National Planning Policy Framework (the Framework) was published on 19 December 2023. The main parties have been given the opportunity to make comments on the implications of the updated Framework for this appeal and I have taken the comments into account in my considerations.

Main Issues

5. The main issues are:
 - whether or not the development plan would support the proposal in this location,

¹ The application form and decision notice refer to Old Police House, but the plans, other application details such as the appeal form, and the sign at the property, refer to Old Police Station. Consequently, I have used the name of the property as Old Police Station in this appeal.

- the effect of the development on the character and appearance of the area, and
- whether or not the scheme should provide a contribution to affordable housing.

Reasons

Location

6. Policy SWDP2 of the South Worcestershire Development Plan (adopted February 2016) (the South Worcestershire DP) sets out the development strategy and settlement hierarchy for the plan area. The policy lists the types of settlements that make up the hierarchy, ranging from urban city areas to lower category villages. The policy explains that the open countryside is defined as land beyond any development boundary.
7. Section C of Policy SWDP2 specifies that development in the open countryside will be strictly controlled. It lists the categories to which development in the countryside is limited to and this includes, for instance, dwellings for rural workers, house extensions and replacement buildings. The South Worcestershire DP identifies boundaries to settlements, including with relevance to this appeal, Leigh Sinton.
8. The development plan also includes The Parishes of Leigh and Bransford Neighbourhood Plan 2022 to 2041 (the Neighbourhood Plan). The Neighbourhood Plan also identifies a settlement boundary for Leigh Sinton and this extends the boundary in a number of places beyond that shown in the South Worcestershire DP, including to encompass the area of new housing on the other side of the road, near to the appeal site. As this is the more recent part of the development plan and, in accordance with paragraph 30 of the Framework, I consider that this settlement boundary takes precedence over the South Worcestershire DP settlement boundary for Leigh Sinton.
9. Policy LB/H/2 of the Neighbourhood Plan sets out its approach to new housing development outside the development boundary and, therefore, for development within the open countryside. This policy lists allowances for certain types of housing, including where there is an essential need for a rural worker and affordable housing on an exception site.
10. In terms of the appeal proposal, the site consists of a section of the side garden of the Old Police Station. This property is located on the north western side of Hereford Road. The boundary of the settlement, as shown in the Neighbourhood Plan, includes land on the south eastern side of the road and encloses the new housing. However, on the other side of the road, the settlement boundary does not extend this far along the north west side of Hereford Road and does not include the Old Police Station. The appeal site is, therefore, outside the defined settlement of Leigh Sinton and, in planning terms, should be considered to be within the open countryside.
11. The scheme proposes an open market dwelling and this would not meet with any of the allowances for new development in the countryside as specified in Policy SWDP2 of the South Worcestershire DP nor Policy LB/H/2 of the Neighbourhood Plan. Consequently, I conclude that the development plan would not support the proposal in this location.

Character and appearance

12. The north western side of this part of Hereford Road, outside the defined settlement boundary, has some fairly extensive sections of agricultural land that adjoin the road. This agricultural land generally lies behind a mixed hedge boundary and contributes a rural character to the street scene. However, there are also some sections of ribbon development which front the road and which lie outside the settlement boundary. This housing provides quite a contrasting, suburban and a more built up character to these parts of Hereford Road.
13. The Old Police Station, while not part of the sections of ribbon development, nevertheless, still exerts a residential and reasonably suburban influence within the road. This is especially because of its clipped hedge along the frontage behind the lower fence/walling, together with the presence of the property itself. It is sited broadly opposite the vehicular road entrance to the new estate of houses and when travelling along Hereford Road appears generally grouped with this new development.
14. The proposed dwelling would be constructed within the side garden of the Old Police Station. It would be accessed from the existing side entrance and, in all likelihood, parking and residential paraphernalia would be screened by the existing frontage hedge, which could be required to be retained in any scheme. The presence of the proposed dwelling would be clearly visible above the hedge but it would be contained within the existing property boundaries and behind the section bordered by the hedge. It would not visually, physically or in character terms extend beyond this well-defined residential space, and would not encroach into the adjoining agricultural land. The layout shows that there would be sufficient space between the proposed and existing dwellings such that the development would not appear cramped.
15. Furthermore, given the presence of the new residential development on the other side of the road, the proposed dwelling would be visually associated with the general residential presence in this area and in character terms would not look out of place in this part of Hereford Road.
16. It follows that I conclude that the scheme would not harm the character and appearance of the area. The proposal would accord with the requirements of Policies SWDP21 and SWDP25 of the South Worcestershire DP and the Framework which require, amongst other things, that development should integrate effectively with its surroundings, in terms of form and function, and reinforce local distinctiveness.

Affordable housing

17. Policy SWDP15 of the South Worcestershire DP sets out the plan approach to the provision of affordable housing. The policy requires that on sites of less than 5 dwellings a financial contribution towards local affordable housing provision should be made, based on the cost of providing the equivalent in value to 20% of the units as affordable housing on site.
18. This policy forms part of an adopted plan and appears generally consistent with the Framework which, in paragraph 65, allows, within designated rural areas, that local planning authorities may set out a lower threshold of 5 units or fewer when seeking the provision of affordable housing.

19. The Council has explained that Leigh Sinton is located within a designated rural area and, therefore, a financial contribution in accordance with Policy SWDP15 of the South Worcestershire DP would be required. While the appellant has explained that there was no invitation from the Council to enter into a planning agreement during the processing of the application, they would consider making a contribution towards affordable housing to accord with the policy. However, there is no secure mechanism, in the form of a planning agreement, that has been completed as part of this appeal and which would deliver the contribution to affordable housing to meet with the requirements of Policy SWDP15 of the South Worcestershire DP.
20. There is nothing exceptional in this case that would justify not completing the planning agreement at this stage and it would not be reasonable or appropriate to seek to address this matter by way of a planning condition because, in particular, a financial payment is required.
21. Accordingly, I conclude that the scheme would not provide the required contribution towards affordable housing and the lack of such a secured contribution would conflict with Policy SWDP15 of the South Worcestershire DP.

Planning Balance and Conclusion

22. The proposed dwelling would be constructed in a location outside the defined settlement boundary contrary to the policies for the distribution of development and the spatial strategy, including within the Neighbourhood Plan. The scheme would not provide the necessary affordable housing contribution. These policy conflicts are of such importance that the scheme would conflict with the development plan when considered as a whole.
23. The Council has confirmed that it is unable to demonstrate a 5 year supply of deliverable housing land. The information is that a supply of about 3.7 years can be shown, and this would be a fairly substantial shortfall. In these circumstances, the presumption in favour of sustainable development, as set out in paragraph 11d of the Framework, is engaged. This advises 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.
24. In terms of the benefits of the scheme, the provision of the dwelling would provide a small boost to the supply of housing on a windfall site making efficient and effective use of the land, and in a way that would not harm the character and appearance of the area. The dwelling could be designed with renewable energy and sustainability features, and would be in a location where future occupants would be able to easily access the services and facilities of this village by foot along the adjoining pavement. The site would be built on previously developed land, being on garden land outside a built-up area. There would be social and economic benefits to the local economy during construction and in subsequent occupation. These are all worthwhile benefits of the development and would have Framework support. However, as only a single dwelling would be provided, the cumulative benefits should be attributed limited weight.
25. On the other hand, the Council has highlighted the implications of paragraph 14 of the Framework, concerning neighbourhood plans. This paragraph, in summary, advises that in situations where the presumption (at paragraph 11d)

is engaged, the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits, provided the neighbourhood plan was made less than five years ago and it contains policies and allocations to meet its identified housing requirement.

26. The Neighbourhood Plan for this area was made on 29 November 2022 and contains Policy LB/H/6 for a housing site allocation of 52 dwellings. The supporting text explains that this level of provision would be in excess of the indicative housing requirement for the Neighbourhood Plan area. The supporting text within the Neighbourhood Plan explains that its intention was to propose a plan led approach to the delivery of housing for this community. The criteria set out in paragraph 14 of the Framework have been met by the Neighbourhood Plan. Indeed, Leigh & Bransford Parish Council recommends refusal of this proposal on the grounds that the proposed development would be outside the development boundary as defined in the Neighbourhood Plan.
27. The appellant lists other housing sites in and around Leigh Sinton that have been permitted outside the settlement, including at appeal. However, I do not have the information to clearly demonstrate that when these proposals were determined they had the same planning circumstances as with the present case, especially as the criteria for the application of paragraph 14 of the Framework was revised on 19 December 2023. Consequently, I am not satisfied it has been shown that these other sites are directly comparable to the present case such as to materially influence the planning balance, and I attribute them limited weight in the overall considerations.
28. In the present circumstances with the Neighbourhood Plan, and having regard to the Framework policy position and weight to be attached as specified in paragraph 14, I conclude that the harm resulting from the location of the development outside the settlement boundary, and the additional harm from the lack of an affordable housing contribution, should be considered to have such weight that the adverse impacts of the scheme would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Consequently, the scheme would not constitute sustainable development in terms of the application of paragraph 11d of the Framework and this weighs very heavily against the proposal.
29. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise².
30. For the reasons given above, there are no material considerations of such weight that indicate the proposal should be determined otherwise than in accordance with the development plan. I therefore conclude that the appeal should be dismissed.

David Wyborn

INSPECTOR

² Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990.