

Appeal Decision

Site visit made on 5 June 2024

by S Rawle BA (Hons) Dip TP Solicitor

an Inspector appointed by the Secretary of State

Decision date: 03 July 2024

Appeal Ref: APP/J1860/W/24/3338915

Land at Stocks Lane, Newland, Malvern, WR13 5AZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant permission in principle.
 - The appeal is made by Rachel Tudor against the decision of Malvern Hills District Council.
 - The application Ref is M/23/01706/PIP.
 - The development proposed is the erection of up to 5 no. dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposal is for permission in principle (PIP). The Planning Practice Guidance (PPG) advises that this is an alternative way of obtaining planning permission for housing-led development. The PIP consent route has two stages. The first stage establishes whether a site is suitable in-principle (the PIP stage) and the second, Technical Details Consent (TDC) stage is when the detailed development proposal is assessed. This appeal relates to the first of these two stages.
3. The scope of the consideration for a PIP 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 the PIP is granted. I have determined the appeal on that basis.

Main Issues

4. The main issues in this case are;
 - whether or not the appeal site is an appropriate location for the proposed development having regard to the settlement strategy and development plan and national policies relating to development within rural areas; and
 - whether or not the site is suitable for residential development having regard to the effect the proposed land use and the amount of development would have on the character and appearance of the area.

Reasons

Whether or not an appropriate location

5. The appeal property comprises stables and associated hardstanding, a field shelter, a portacabin, a shed and a lunging ring. The proposal would involve the removal of the existing buildings and structures and the erection of up to five dwellings.
6. It is common ground between the main parties that the appeal site is outside the settlement boundary and consequently the appeal site is within the open countryside. Policy SWDP 2 of the South Worcestershire Development Plan adopted February 2016 (SWDP) sets out the development strategy and settlement hierarchy and highlights that within the open countryside development will be strictly controlled and will be limited to certain types of development.
7. The appeal site does not meet any of the specific limited types of development set out in SWDP 2. As a result, relevant development plan policies do not support the introduction of a dwelling at the appeal site.
8. Although the appeal site is located just outside the village of Newland. The Council highlight that the village falls within a category of village defined as having low/medium level of public transport provision and low services/facility provision. The appellant points out that the latest category does not reflect the sustainability of the village, which is located about 1.5-2 km from the Malvern Retail Park and Spring Lane Industrial Estate and the fact that there are two bus stops within walking distance that provide services to Worcester and Malvern.
9. The appellant also highlights that there is a continuous pavement along Stocks Lane which provides access to Newlands. However, taking account of the available evidence and my own observations, Newlands has limited services and facilities and the appeal site is not located within a convenient walking distance of the more extensive facilities which are 1.5-2 km away. As a result, given the location of the appeal site relative to services and facilities I consider that it is more likely than not that future occupiers of the proposed dwellings would be reliant on the private car.
10. This finding is consistent with a previous appeal decision on the same site¹, where the Inspector found that the likelihood is that there would be reliance on the private motor car for the majority of trips, even allowing for the possibility of some journeys by bus or on foot. I also agree with the previous Inspector that there is not a continuous footpath linking the appeal site to Newlands, but rather there is a narrow section of roadside verge in front of the neighbouring property and that the pavement does not begin until some 20-30 metres to the south of the existing site entrance. This would act as a disincentive to journey on foot, including to the bus stops.

¹ APP/J1860/W/17/3187036,

11. The appeal site would therefore not represent a location which is sustainable as contrary to the National Planning Policy Framework (the Framework) it would not be located where the need to travel would be limited. Further, services and facilities within Newland are limited and the proposal would make only a very modest contribution to enhance or maintain the vitality of the rural community. This would be clearly outweighed by the fact that the proposal would not be located where the need to travel would be limited.
12. In reaching that view I have taken account of the appeal decision at Callow End² which the appellant has brought to my attention and highlights that in that case the Inspector accepted that future residents could safely access facilities along a road that did not have street lighting. However, that case is materially different from the case before me because the Inspector found that the range of facilities, including a store, a post office, a village hall and a school, a farm shop/café/deli, two pubs and a social club were within a comfortable walking and cycling distance. As a result, the location of that site relative to services and facilities is entirely different from the situation here, where there are very limited facilities within walking distance. As a result, I have afforded that case limited weight in the determination of the appeal.
13. The appellant also points out that the appeal site represents previously developed land and that the thrust of emerging policies and the Framework support development on such land. I agree with the previous Inspector who after careful analysis and taking account of the definition contained within the Framework, found that the appeal site met the definition of previously developed land. The Framework seeks to make as much use as possible of such land. However, the fact that the appeal site is not located in a sustainable location nor is it accessible significantly tempers the weight I afford to this matter which I give limited weight. The fact that the appeal is previously developed land does not justify development in an unsuitable location.
14. I therefore conclude that the proposed dwellinghouses would not be located in an appropriate location having regard to the settlement hierarchy and would not accord with development plan and national policies relating to development within rural areas. I afford this matter significant weight in the determination of the appeal. The proposal would therefore conflict with Policies SWDP 2 and SWDP 4 of the SWDP which among other things seek to strictly control development in the open countryside and minimise demand for travel. The proposal would also be at odds with the Framework as the proposal would not be located where the need to travel would be limited.

Suitable land use and amount of development

15. Like the previous Inspector, I observed that the stables and associated development at the appeal site are low level modest structures not uncommon features in rural environments and are relatively unobtrusive.
16. It is apparent that the appeal site has not significantly changed since the previous decision and I observed that beyond the equine related development located close to the road, there are open fields and paddocks. Although these appear overgrown, they create a significant sense of verdant openness which makes a significant contribution to the character and appearance of the area. The appeal site sits comfortably within its immediate context as although the

² APP/J1860/W/23/3320958

appeal site adjoins a line of residential dwellings its modest equine structures and facilities and open verdant areas are compatible with the surrounding rural landscape.

17. The appellant correctly highlights that at this stage, the PIP is not the final stage of the process, and the layout of the proposal and the design of the dwellings would be confirmed at the technical details stage. At the next stage the appellant would have the opportunity to pay regard to the "Principal Timbered Farmlands' Landscape" and a visual appraisal in support of the proposal could be provided.
18. However, given my assessment of the contribution the appeal site makes to the character and appearance of the area, up to five residential dwellings on the appeal site, wherever sited and however ultimately designed would unacceptably harm the prevailing spacious character of the area due to the amount of development proposed and I afford significant weight to that harm.
19. In reaching that view, I have had regard to the significant development that is proposed as part of the North-East Malvern urban extension, which has recently received outline planning permission and a further large-scale residential development scheme on land on the opposite side of Stocks Lane, where a decision is awaited. I fully appreciate that the urban extension and if approved, the development on the opposite side of Stocks Lane would significantly change the character and appearance of the land involved. However, the appeal site is on the other side of the road and has a materially different context and the existence of these other large-scale developments does not justify harmful development on the appeal site.
20. I therefore conclude that the site is not suitable for residential development having regard to the effect the proposed land use and the amount of development would have on the character and appearance of the area. I afford the harm the proposal would have on the character and appearance of the area significant weight. The proposed development would therefore not accord with Policies SWDP 21 and SWDP 25, which among other things seek to ensure development integrates effectively with its surroundings and are appropriate with the character of the landscape setting. The proposal would also be at odds with the Framework which seeks to ensure development is sympathetic to local character, including the landscape setting.

Other Matters

21. I turn now to consider housing supply. The Council accept that they cannot demonstrate a 4-year supply of housing and I accept the appellant's evidence that they can only demonstrate 3.31 years housing land supply as at 31 March 2023. This is well below Government expectations. The proposal would undoubtedly be valuable in boosting housing stock in circumstances where there is an existing shortfall but given that it would result in only up to five dwellings this tempers its weight.
22. I accept that the proposal would have a cumulative effect in the supply of housing and would have limited economic, social and environmental benefits. For example, it would provide some jobs and create demand for materials during the construction phase, would broaden the availability of housing in the area and once occupied would support the limited facilities in Newland. Overall,

I afford the provision of up to five dwellings modest weight in the determination of the appeal.

23. As outlined above, I have taken account of the fact that the appeal site is previously developed land but for the reasons given I afford that matter limited weight. I also note that the appeal site is located in flood zone 1 and would avoid any conflict with the sequential test. However, that is a neutral factor in the determination of the appeal.

Planning Balance

24. I have afforded some matters weight as outlined above and I afford the totality of the benefits moderate weight in the determination of the appeal.
25. On the other hand, I have found that the proposed dwellinghouses would not be located in an appropriate location having regard to the settlement hierarchy and that the appeal site would not be suitable for residential development having regard to the effect the proposed land use and the amount of development would have on the character and appearance of the area. I have afforded both these matters significant weight. As a result, the proposal would conflict with the development plan and the Framework as a whole.
26. As set out above, based on the available evidence the Council can only demonstrate a housing land supply of 3.31 years. As a result, Paragraph 11(d) of the Framework is engaged. However, for the reasons set out above, the adverse impacts of granting permission for the proposal would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole.
27. Consequently, the scheme would not represent sustainable development within the meaning of paragraph 11(d) of the Framework and this weighs substantially against the scheme.
28. In reaching that view I have taken account of a planning appeal decision at Lower Broadheath³, that has been brought to my attention where an Inspector found that the scheme would represent sustainable development under paragraph 11(d). However, again the circumstances of that case are materially different as the Inspector found that the harm due to the appeal site not being in a suitable location would be limited. Further, he did not find there was any other material harm. Consequently, given these material differences, I afford that appeal decision limited weight in the determination of the appeal.
29. The appellant has also referred to other appeal decisions in their planning statement. However, again these are materially different from the case before me. For example, the case at Kempsey⁴ and at Hallow⁵ involved significantly more dwellings than proposed here and in different locations, therefore the ingredients within the planning balance were materially different. Moreover, for the other earlier case at Callow End⁶, the Inspector found that the appeal site was in comfortable walking distance of numerous services and facilities. So again, the circumstances are materially different. Consequently, all the other

³ APP/J1860/W/23/3332645

⁴ APP/J1860/W/22/3313440

⁵ APP/J1860/W/23/3323076

⁶ APP/J1860/W/17/3176459

appeal decisions that have been brought to my attention, do not alter my overall view, nor do they justify harmful development at the appeal site.

Conclusion

30. The proposal conflicts with the development plan and the Framework and material considerations do not indicate that the appeal should be decided other than in accordance with the development plan. I therefore conclude that the appeal should be dismissed.

S Rawle

INSPECTOR