



Appeal Decision

Hearing held on 25 June 2024

Site visit made on 26 June 2024

by Katie McDonald MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 July 2024

Appeal Ref: APP/P1805/W/24/3339483

Land to the rear of 1-6 Smedley Crooke Place, Hopwood B48 7TP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Cawdor Capital (Hopwood) Limited against the decision of Bromsgrove District Council.
 - The application Ref is 22/01419/FUL.
 - The development proposed is 34 affordable houses.
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Decision

1. The appeal is allowed and planning permission is granted for 34 affordable houses at land to the rear of 1-6 Smedley Crooke Place, Hopwood B48 7TP in accordance with the terms of the application, Ref 22/01419/FUL, subject to the conditions in the attached Schedule.

Application for costs

2. A full application for costs was made by the appellant against the Council. This is the subject of a separate Decision.

Preliminary Matters

3. A planning obligation in the form of a Unilateral Undertaking was presented in draft form at the Hearing. It was subsequently finalised, signed and executed as a deed, dated 8 July 2024. I have taken this into account accordingly.

Main Issues

4. The main issues are:
 - a) Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies.
 - b) Whether the proposal would support active and sustainable modes of travel.

Reasons

Site and proposal

5. Located to the southern edge of the village of Hopwood, the site is around 0.8 hectares in size. It is roughly rectangular in shape, relatively flat and comprises compacted hardcore across most of the site and open storage of cabins. There is an Existing Use Certificate which confirms the use as open storage of plant

and equipment. This use was confirmed in 1985 and is completely unrestricted in hours of use, stacking heights and types of storage.

6. To the north, the site adjoins the existing rear gardens of properties in Smedley Crooke Place. The eastern boundary abuts the rear gardens of properties on Woodpecker Close and a small field, beyond which are the grounds of the old Edwardian Sports Club. The western boundary is formed by the road and roundabout, and the whole site is surrounded by tall and well established vegetation. The existing access is located between Smedley Crooke Place and the large roundabout junction.
7. The proposal is for 34 affordable dwellings across the site, including access roads, attenuation pond and landscaping. A new access directly onto the roundabout, and the reconfiguration of the roundabout, is also proposed.

Whether the proposal would be inappropriate development in the Green Belt

8. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The construction of new buildings should be regarded as inappropriate in the Green Belt.
9. The Framework sets out that exceptions to this include limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would: not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.
10. It is agreed between both parties that the proposal would provide 100% affordable housing, meeting an identified and acute affordable housing need in the area. It is also agreed that the site is previously developed. The remaining consideration is to establish if the proposal would cause substantial harm to the openness of the Green Belt. Substantial harm is a high bar given that the exception allows for housing development, and thus there would be an anticipated, inevitable and axiomatic impact on openness.
11. At the time of my visit, the site was littered with portable cabins, some of which were stacked. Along with the hardstanding, the open storage at the site impacts upon openness spatially. Whilst I accept this is a snapshot in time, the use is unrestricted and there could be any type of storage on the site in the future, along with unrestricted comings and goings at any time. The use is permanent, and the site is completely developed.
12. Furthermore, the site is visually enclosed to a significant extent by the existing tall landscaping, with views of the storage cabins and hardstanding only possible through limited gaps in the hedge or at the access point. It is also on the edge of a village and adjoins existing development. As a result, the site could not be considered as open in any realistic sense, and the current condition of the site contributes very little, if anything to openness. This is a similar conclusion to the previous Appeal Decision¹.
13. The erection of 34 dwellings across the site would create a permanent and significant scale of development. It would also introduce a considerable level of

¹ APP/P1805/W/19/3230823

different activity to the site, given there would be daily comings and goings from new residents. The overall effect of the proposal would cause a reduction in openness.

14. However, in addition to retaining and improving the existing boundary landscaping, additional landscaping would be planted. Whilst the tops of the dwellings would remain visible, and views into the estate would be gained from the new access point, the landscaping would ameliorate the visual impact on openness to some extent. Moreover, given the existing unrestricted and previously developed nature of the site, the site conditions, and the proposed layout, it is my view that the harm to openness would be significant, but not substantial.
15. Thus, the proposal would meet the exception set out in the Framework and is not inappropriate development. This would comply with the Framework. However, it would not meet any of the policy criteria specified at Policy BDP4 of the Bromsgrove District Plan (BDP) (January 2017). This is because exception 154 g) of the Framework is not included in Policy BDP4.4. This is inconsistent with the Framework, and in this specific instance, the weight to be attributed to this policy is reduced.

Active and sustainable modes of travel

16. The Framework recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. Hopwood is a moderately sized village on the outskirts of Bromsgrove, and is identified as a 'smaller settlement' in the BDP, where there are limited opportunities for growth.
17. In terms of services, it contains a petrol filling station with convenience store, a public house/restaurant, ATM, community centre, sports pitches and park and bus stops. All are within walking distance of the site and additionally, Hopwood Services are within 1km. Additionally, off site highway improvements would provide pedestrian crossing points with dropped kerbs and tactile paving at Smedley Crooke Place and across the roundabout. This would provide suitable improvements to pedestrian infrastructure, and despite local concerns, I see no reason why these would need to be signalled crossing points.
18. For a village, Hopwood is not devoid of services and facilities. However, future residents are likely to need to access other services, such as schools, medical facilities, supermarkets and employment in larger settlements. This is likely to require access by a private car, public transport or cycling.
19. In terms of public transport, the bus infrastructure has been recently improved to provide additional daytime services. The proposal would also commit to providing a monetary contribution to increase the number of peak time services to encourage bus travel for future and existing residents. The services would run between Bromsgrove and Redditch and small settlements in the daytime, Monday to Friday. Whilst these monies would not secure the improvements on a permanent basis, they would provide improvements to the bus infrastructure to serve the future residents, having regard to the accessibility of public transport options, as required by Policy BDP1 of the BDP.
20. The bus infrastructure servicing the site is likely to encourage public transport usage. Furthermore, given the tenure would be socially rented homes for those in housing need, it is my view that these residents would be likely to use the

bus services more so than residents purchasing market housing. This is because, based on the evidence before me, they are less likely to have access to a private car. Indeed, this could secure a continued future bus services in the area as the patronage is likely to be increased. The Council's claim that the level of non-car ownership for socially rented homes would exacerbate the unsustainable location is unfounded, particularly considering the improvements being provided to the bus infrastructure.

21. In terms of cycling, the area is not of particularly challenging terrain and the roads are suitable and conducive to cycling, particularly given the relatively short distances to Alvechurch and Barnt Green. Thus, if there is a propensity to cycle, future residents would be likely to cycle to access day to day services and facilities, and employment. This is even considering inclement weather and street lighting. Future residents would also be provided with bicycle storage, which would encourage bicycle ownership. Given my findings, it would also be reasonable to conclude that the railway stations at Alvechurch and Barnt Green would also be accessible on a bicycle or by the bus. This would facilitate access to larger settlements.
22. There are no schools located in the village. However, the planning obligation would also contribute towards transport for educational purposes that would enable future occupants to access school buses. This is because the designated high schools in Bromsgrove exceed the statutory maximum walking distance of 3 miles. Additionally, the County Council have a need for community transport for elderly and disabled residents where traditional bus services cannot fully account for specialised needs. The planning obligation would also provide monies towards this.
23. Nevertheless, even with all these measures, the location of development is still likely to result in some future residents relying on a private car for some journeys. This is considering the lack of bus service at the weekends and in the evening. Yet, Building Regulations now requires dwellings to be fitted with electrical vehicle charging points. This means that future owners would be encouraged to own ultra low and zero emission vehicles, which also represents a sustainable transport mode in the Framework. A welcome pack to promote sustainable forms of transport for future residents may also go some way to reduce reliance on the private car. This would be the subject of a planning condition.
24. Therefore, the measures proposed would improve walking and cycling access and bus transport for all residents, be those disabled or school aged. The proposal would not exacerbate motor vehicle dependence, in fact, it would very clearly support active and sustainable modes of travel. This would be compliant with Policies BDP1 and BDP16. These policies encourage the use of sustainable methods of travel. There would also be compliance with the Framework, which promotes sustainable transport.

Planning obligations

25. The Unilateral Undertaking (UU) obliges to provide 34 affordable homes. These are to be delivered as socially rented units and there is an agreement in place with a local provider. Additionally, monetary contributions towards community transport services, additional healthcare requirements for nearby GP services, public transport, school transport and waste management are included. These contributions would be paid to the Council (waste management) and

Worcestershire County Council (community, public and school transport and the healthcare contribution). A monitoring fee is also included in the agreement, that would be paid to the Council.

26. The Council's Planning Obligation Statement adequately sets out sufficient justification for the affordable housing, monetary contributions and monitoring fees. Based on my findings above, and the evidence before me, all these obligations would be necessary to make the development acceptable, directly related, and fairly and reasonably related in scale and kind.

Other matters

Local residents

27. Concerns have been raised that the proposal would be 100% affordable housing and this would not create a mixed and balanced community. However, there would be no policy conflict, and there is no substantive evidence before me that the proposal would fail to deliver a suitable housing mix. Indeed, the housing typologies would meet a proven need for family homes in the district.
28. The Local Highways Authority raise no objection to the development, and despite assertions from local residents, I have no substantive evidence that the roads are unsafe, or the proposal would lead to highway safety concerns. Indeed, the existing access would be extinguished, and improvements to the roundabout junction would take place, creating a deflection which would slow cars down on approach when heading south. This is a benefit to the scheme.
29. A contribution to education was considered unnecessary by the County Council due to the tenure of the dwellings proposed. The interface distances between dwellings would be sufficient to ensure no harm to existing or future living conditions.

Ecology

30. Three ponds are present within 250 m from the site boundary. The desk study² has found the presence of great crested newts (GCN) within the wider area and the discovery of a grass snake on site confirms suitability for reptile and amphibian species. A Rapid Risk Assessment was undertaken on pond 1, which found that an offence could be likely because the development activities are of such a type, scale and location that impacts on GCN cannot be discounted.
31. For this reason, the PEA recommends a GCN method statement would be necessary to ensure works do not harm the protected species. This would ensure that all site contractors are inducted to ensure they understand working methods and legal implications surrounding GCNs, and a GCN Detection Dog will be deployed to the site. If the dog indicates any terrestrial presence of the species, all works will halt and a Natural England European Protected Species Licence applied for. If the dog does not detect any presence of newts on site, works will proceed under the supervision of a suitably qualified Ecologist.
32. The habitats on site may support other reptile species such as slow worm. The PEA recommends habitat clearance is undertaken under the supervision of a suitably qualified ecologist to ensure any species are relocated safely. The plans propose an area of landscaping to the southeastern corner of the site.

² From the Preliminary Ecological Appraisal Report (PEA) (June 2024) prepared by SEED Arboriculture Ltd

This area includes new grassland, trees, wildflower meadow and shrub mix which will be of benefit for both amphibians and reptiles. With these measures in place by a planning condition, I am satisfied that there would be no harm to protected species.

Planning balance

33. It is accepted by both main parties that the proposal would conflict with Policy H2 of the Alvechurch Parish Neighbourhood Plan (January 2019). This is because the location of development would lie outside the village envelope. There would also be conflict with Policy BDP4 of the BDP.
34. However, the Council cannot demonstrate a 5 year supply of housing. This means that paragraph 11 d) ii. of the Framework, or the tilted balance, would be engaged. 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 this Framework taken as a whole.
35. Because of the poor housing land supply position, this indicates that the spatial strategy is not effective and therefore Policy H2 is of limited weight. Additionally, because Policy BDP4 is not consistent with the Framework, it too is of limited weight in this specific instance.
36. The proposal would deliver 34 affordable homes to people in housing need, in an area where the delivery of affordable housing has been woeful. It would also re-use previously developed land. These benefits are significant. It would also help to sustain existing community facilities, improve public transport and deliver economic benefits. These would be of benefit to the wider community and weigh heavily in favour of the proposal. Additionally, there would be off site highway improvements.
37. Taken together, the adverse effect of the policy conflicts would not significantly and demonstrably outweigh the substantial benefits of the proposal, when assessed against the policies in the Framework taken as a whole. Even on a flat balance, the benefits of the scheme would outweigh the policy conflicts.

Conditions

38. The plans are listed for certainty [condition 2]. A method statement to avoid harm to GCNs, amphibians and reptiles is necessary to protect species [condition 3]. A construction method statement is necessary to avoid harm to neighbouring living conditions and for the safety of all highway users [condition 4]. Tree protection is necessary to ensure the proper retention of trees [condition 5]. Detailed site investigation for contaminated land and remediation are necessary as the site is previously developed [conditions 6 and 7]. A timetable for implementing highway works is necessary to ensure the safety of all highway users [condition 8]. A foul and surface water drainage scheme is necessary to ensure suitable measures are put in place [condition 9].
39. Conditions 3-9 are required to be pre-commencement as it is fundamental to have these details agreed before development starts on site. The appellant has agreed to the imposition of these conditions in writing.
40. An external lighting scheme is necessary to minimise the impacts of lighting on bats [condition 10]. A noise mitigation scheme is necessary to ensure suitable

future living conditions [condition 11]. Samples of external materials are necessary to ensure the appearance of the development is suitable [condition 12]. Secure bicycle storage and a residential welcome pack are necessary to promote sustainable modes of transport [conditions 13 and 14].

41. The implementation of all highway works is necessary to ensure the development is safe for all highway users [condition 15]. A Landscape and Ecological Management Plan is necessary to ensure ongoing management of the public areas of landscaping [condition 16]. Boundary treatments are necessary to ensure suitable measures are put in place and should include details of hedgehog highways to allow for commuting throughout the site [condition 17]. Lastly, a report to demonstrate ambient indoor noise levels is necessary to ensure suitable living conditions [condition 18].
42. An electric vehicle charging point is required by Building Regulations and it would be unnecessary to impose this condition.

Conclusion

43. For the reasons set out above, the appeal is allowed.

Katie McDonald

INSPECTOR

APPEARANCES

For the Local Planning Authority:	
Paul Lester BSc(Hons) DipTP MRTPI	Principal Planning Officer, Bromsgrove District Council
For the appellants:	
Charles Robinson Btech(Hons) MPhil MRTPI	Planning Consultant, TwelveTwentyOne Planning Services Ltd
Dan Rickett BA(Hons) BArch RIBA ARB	Chartered Architect and appellant representative
James McGavin BA (Hons) MScENG FCHIT	Director, The Transportation Consultancy Ltd
Interested parties	
Cllr Charles Hotham BSc MSc PHD	Ward member

HEARING DOCUMENTS

HD1	Draft Unilateral Undertaking with Council comments, Official Title and Register
HD2	Council's suggested ecology condition
HD3	Council's ecological comments dated 26 June 2024
HD4	Confirmation on agreement to pre-commencement conditions from appellant
HD5	Finalised Unilateral Undertaking dated 8 July 2024

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby approved shall be carried out in accordance with the following plans and drawings:
 - Site Location Plan Ra_3298_S3_001
 - General Site Plan Ra_3298_S3_004 F
 - Landscape Masterplan 4202 101 Rev B
 - Planting Plan (1 of 2) 4202 201 Rev B
 - Planting Plan (2 of 2) 4202 202 Rev B
 - Housetype Ra_1 Ra_3298_S3_100 C
 - Housetype Ra_1.1 Ra_3298_S3_101 C
 - Housetype Ra_2 Ra_3298_S3_200 C
 - Housetype Ra_2.1 Ra_3298_S3_201 C
 - Housetype Ra_3&3.1 Ra_3298_S3_300 C
 - Site Access Arrangements 210672-01 Rev B
 - Proposed Pedestrian Crossings 210672-01 Rev
- 3) No site clearance, preparatory work or development shall commence, including any works of demolition until a method statement to avoid harm to Great Crested Newts, other amphibians and reptiles during construction has been submitted to and approved in writing by the local planning authority. The development shall be carried out strictly in accordance with the approved details.
- 4) No site clearance, preparatory work or development shall commence, including any works of demolition, until a Construction Method Statement (CMS) has been submitted to and approved in writing by the local planning authority. The approved CMS shall be complied with throughout the construction period for the development and shall include details of:
 - a) site management arrangements including on-site storage of materials, plant and machinery; on-site parking and turning provision for vehicles for site operatives, visitors and construction vehicles; and provision for the loading/unloading of plant and materials within the site;
 - b) a programme of works, including measures for traffic management, temporary construction access and details of temporary signage;
 - c) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate.
 - d) wheel washing facilities;
 - e) measures to control the emission of dust and dirt during construction; and,
 - f) delivery, demolition and construction working hours.
 - g) A highway condition survey and a timescale for re-inspection and remediation where necessary.
- 5) No site clearance, preparatory work or development shall commence, including any works of demolition, until all retained trees and hedgerows have been protected in accordance with BS5837:2012 and measures outlines in the Seed Arboricultural Impact Assessment reference number 1222- AIA-V1-C. No works of any kind shall be permitted within or through the Root Protection Areas of trees or hedges on and adjacent to the application site. The protection shall be retained in situ for the duration of the works, and only

removed once the development is complete and all machinery and works material removed from the site.

- 6) No site clearance, preparatory work or development shall commence, including any works of demolition, until a scheme for detailed site investigation to address the unacceptable land contamination risks has been submitted to and approved in writing by the local planning authority. The scheme must be designed to assess the nature and extent of any contamination and must be led by the findings of the preliminary risk assessment. The site investigation and risk assessment scheme must be compiled by competent persons and must be designed in accordance with the Environment Agency's "Land Contamination: Risk Management" guidance. The detailed site investigation and risk assessment must be undertaken in accordance with the approved scheme. A written report of the findings produced shall be submitted to and approved in writing by the local planning authority prior to any development taking place.
- 7) No development shall take place where (following the site investigation and risk assessment) land affected by contamination is found which poses risks identified as unacceptable in the risk assessment, until a detailed remediation scheme has been submitted to and approved in writing by the local planning authority. The scheme shall include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including the verification plan. The remediation scheme shall be sufficiently detailed and thorough to ensure that upon completion the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 in relation to its intended use. The approved remediation scheme shall be carried out, and upon completion a verification report by a suitably qualified contaminated land practitioner shall be submitted to and approved in writing by the local planning authority before the development, or relevant phase of development, is occupied.
- 8) No development shall commence until a phased timetable for implementation of the layout, turning areas and parking facilities to be carried out in accordance with Drawing Ra_3298_S3_004_F, has been submitted to and approved in writing by the local planning authority. All vehicular routes shall be provided to base course level in accordance with the phased timetable for implementation and completed in full before final occupation or completion of the development, whichever occurs earlier.
- 9) No development shall commence until a surface and foul water drainage scheme has been submitted to and approved in writing by the local planning authority. The scheme shall include:
 - a) construction ready drawings
 - b) a survey of the ditch line identified along the southern site boundary, identifying downstream connectivity.
 - c) a timetable for its implementation
 - d) a management and maintenance plan for the lifetime of the development, including any arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the effective operation of the drainage systems throughout their lifetimes.

The drainage scheme shall be carried out in accordance with the approved details, and managed and maintained in accordance with the approved management and maintenance plan.

- 10) Prior to the construction of any dwelling above slab level, a scheme for all permanent external lighting (excluding that within the curtilage of individual dwellings) across the site, including details of the lighting specification, the siting of lighting columns/posts and a timetable for implementation, shall be submitted to and approved in writing by the local planning authority. The development shall be constructed in accordance with the approved scheme and thereafter maintained and retained at all times.
- 11) Prior to the construction of any dwelling above slab level, a detailed scheme of noise mitigation for the dwellings, based on an up-to-date noise assessment, shall be submitted to and approved in writing by the local planning authority. The approved measures for each dwelling shall be provided in full before the occupation of that dwelling and shall be always retained as such thereafter.
- 12) Notwithstanding the submitted details, no development above ground floor slab level shall take place until samples of external materials to be used in the construction of the development hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 13) Prior to the construction of any dwelling above slab level, details of secure storage facilities for bicycles for all units shall be submitted to and approved in writing by the local planning authority. The approved details shall be implemented prior to each individual residential unit being occupied.
- 14) No dwellings shall be occupied until a residential welcome pack promoting sustainable forms of transport has been submitted to and approved in writing from the local planning authority. The pack shall be provided to each household at the point of occupation.
- 15) No dwellings shall be occupied until the highway works detailed on drawing Nos 210672-01 Rev B Site Access Arrangements Sheet 1 of 13 and 210672-01 Rev Proposed Pedestrian Crossings Sheet 13 of 13 have been constructed and completed.
- 16) No dwellings shall be occupied until a Landscape and Ecological Management Plan (LEMP) including long term objectives, management responsibilities and maintenance schedules for all public landscape areas, has been submitted to and approved in writing by the local planning authority. The content of the LEMP shall include the following:
 - a) Description and evaluation of features to be managed.
 - b) Ecological trends and constraints on site that might influence management.
 - c) Aims and objectives of management.
 - d) Appropriate management options for achieving aims and objectives.
 - e) Prescriptions for management actions.
 - f) Preparation of a work schedule (including extent and location of proposed works and an annual work plan capable of being rolled forward over a 5 year period).
 - g) Details of the body or organisation responsible for implementation of the plan.
 - h) Ongoing monitoring and remedial measures.

The approved LEMP shall be implemented in accordance with the approved details. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar sizes or species.

- 17) No dwellings shall be occupied until details of the boundary treatments have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 18) No dwellings shall be occupied until a pre-completion testing report has been submitted to and approved in writing by the local planning authority. This report must show that indoor ambient noise levels in living rooms and bedrooms meet the standards within BS 8233:2014. Non-compliance will require additional mitigation measures to be incorporated into the development prior to first occupation of the development. Such measures must first be submitted to and approved in writing by the local planning authority. All approved mitigation measures which secure compliance with the terms of this condition must be implemented and retained. If any approved mitigation measure requires replacing, the replacement must perform to at least the same sound protection level as previously approved.

*****END OF CONDITIONS*****