



Appeal Decision

Site visit made on 22 May 2024

by J D Clark BA (Hons) DpTRP MCD DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 August 2024

Appeal Ref: APP/H1840/W/23/3332166

Land to southwest of Babylon Lane, Bishampton WR10 2NN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mr Philip Deeley of Matthews Construction against the decision of Wychavon District Council.
 - The application Ref is W/22/02754/OUT.
 - The development proposed is outline application with all matters reserved bar access for the construction of 3 no. dwellings.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs is made by Mr Philip Deeley of Matthews Construction against Wychavon District Council. That application is subject to a separate Decision.

Preliminary Matters

3. The proposal is for outline permission with access only applied for. Appearance, landscaping, layout and scale are reserved for later determination. As access is applied for, details of the access and vehicle manoeuvring within the site are submitted¹ which also show the layout of three houses. Although layout is a reserved matter and a site layout plan is submitted as indicative (although it is not clearly marked as such), I have taken the layout into account only insofar as it relates to the access.
4. The Appellant has submitted a signed Unilateral Undertaking (UU) for the provision of affordable housing. The Council comment on the UU stating that it would overcome its reason for refusal in relation to this matter.

Main Issues

5. The main issues are: -
 - whether the appeal site is a suitable location for housing having regard to the policies of the development plan and the National Planning Policy Framework²; and

¹ Vehicle Tracking Sheets 1 and 2 – Drawing Nos: BLB-ONE-ZZ-DR-C-3001 Revision P02 & BLB-ONE-ZZ-XX-DR-C-3002 Revision P01.

² Department for Levelling Up, Housing & Communities - National Planning Policy Framework, December 2023 (the Framework).

- the effect of the proposal on the character and appearance of the surrounding area.

Reasons

Location

6. Babylon Lane is a cul-de-sac comprising residential properties. One other property, Copperfields, is accessed from the end of the cul-de-sac. A public footpath runs from the lane in a westerly direction and another footpath runs in a north-south direction. The appeal site comprises an area of land located at the end of Babylon Lane with the public footpaths running close to its northern and eastern boundaries. There are stables and a paddock on the site.
7. The site is outside the settlement of Bishampton. Amongst other things, Policy SWDP 2 of the South Worcestershire Development Plan³ seeks to safeguard and wherever possible enhance the open countryside and thus strictly controls development in such locations. It limits development to dwellings for rural workers, employment development in rural areas, rural exception sites, buildings for agriculture and forestry, replacement dwellings, house extensions, replacement buildings and renewable energy projects and development specifically permitted by other SWDP policies. The proposed development would not fall within any of these permitted development types.
8. Furthermore, this policy sets out a hierarchy of settlements. The Council describe Bishampton as being in a category 3 village. These villages provide a varying range of local services and facilities and are considered suitable to accommodate local market and affordable housing needs as well as limited employment needs. There is no dispute between the main parties that the appeal site is close to the village and its range of local services. In this respect therefore, the site is locationally sustainable.
9. Policy SWDP 1 is an overarching policy setting out sustainable development principles which largely reflects the Framework. Whilst the site is very close to the edge of the village and is locationally sustainable, the Framework includes the environmental objective of sustainable development. This seeks to protect and enhance the natural and built environment and recognises the intrinsic character and beauty of the countryside. The construction of three dwellings in this countryside location would fail to do this.
10. Consequently, the proposal would conflict with Policies SWDP1 and SWDP2 and therefore the appeal site is not a suitable location for housing having regard to the policies of the development plan and the National Planning Policy Framework.

Character and Appearance

11. Babylon Lane is characterised by bungalows and dormer bungalows with open front gardens and set at varying distances back from the road. It is a cul-de-sac with the private access to Copperfields off it together with links to the public footpath network in this area. Copperfield is set apart from the dwellings in the cul-de-sac and is surrounded by open land and hedgerows. The pattern of development along Babylon Lane is linear but other than Copperfield, which

³ South Worcestershire Development Plan, Adopted February 2016 (SWDP).

- stands alone and separate from the village settlement, the settlement boundary is clearly defined by the end of the row of houses in the lane.
12. The proposed dwellings would extend beyond this and clearly intrude into the countryside beyond the settlement. The change from the urban character of Babylon Lane into open countryside is accentuated by the public footpaths which act as a demarcation between the urban and rural environments and lead directly from the village into the countryside.
13. I do not accept that the proposal would represent an acceptable infill development between the existing houses in Babylon Lane and Copperfield. Rather, it would create a discordant off-shoot from the village into the countryside. I note the reference to the pattern of development in the village and the landscape typology referred to⁴. Regardless of how it is described, the end of Babylon Drive, as I observed on site, clearly marks an edge to the settlement.
14. Amongst other things, Policies SWDP21 and SWDP 25 collectively require development to integrate into its surroundings and complement the character of the area. The proposal would extend the settlement into the countryside which would erode the distinction between the urban and rural areas. This would be harmful to the character and appearance of the surrounding area contrary to these policies.

Other Matters

15. Reference has been made to a planning approval at Nightingale Fields⁵. That site is also outside the settlement boundary. The Council considered development in that case not to have the same impact on the countryside as the appeal site. I agree and do not consider that the two sites are comparable in that the Nightingale Fields site is surrounded on three sides by the existing settlement in contrast to the elongated effect of the proposal at the end of the cul-de-sac and its subsequent intrusion beyond what is clearly the edge of the village.
16. I note the various appeal decisions submitted and referred to⁶. Although there are some similarities, the circumstances in each differs and therefore are not directly comparable with the appeal site.

Planning Balance

17. The Framework establishes a presumption in favour of sustainable development and Paragraph 11 d) indicates that where there is no up to date development plan, development should be permitted. The Council cannot demonstrate a five year supply of housing land as required by the Framework. Based on the Five Year Housing Supply Report Published December 2023, the Council has a 2.65 years supply of housing land⁷. Therefore, Policy SWDP 2 is out of date and 11 d) is engaged.

⁴ Landscapes of Worcestershire Landscape Type Information Sheet Village Claylands.

⁵ Planning Application Ref: 23/00933/PIP.

⁶ Planning Appeal Refs: APP/H1840/W/22/3297160; APP/H1840/W/22/3300326; and APP/H1840/W/23/3315676.

⁷ South Worcestershire Council's Five Year Housing Land Supply Report Monitoring Period 2022/23 5YHLS Period 2023/28 – Malvern Hills District Council, Worcester City Council, Wychavon District Council, Published December 2023.

18. The Council's shortfall in housing land is considerable and this matter carries significant weight. The proposal would also result in public benefits in terms of the economic benefits of constructing three dwellings and the subsequent economic and social benefits arising from the occupation of those dwellings. The proposal would also make a contribution to affordable homes.
19. Environmental benefits would occur in that the existing site has low ecological value but biodiversity could be improved by new native hedgerows and a suitable landscaping scheme. This could be secured through a suitably worded condition. There would also be opportunities for the eventual design of the dwellings to incorporate measures to secure a low carbon future including solar panels. However, these benefits would need to be balanced against the environmental harm in terms of urbanising an area of countryside especially given its proximity to the rural public footpaths close by.
20. Thus, whilst the proposal would meet the economic and social objectives for sustainable development as set out in the Framework, and it would have some environmental benefits, the harm would be greater and long lasting. The harm caused by developing outside the settlement in this case would also cause harm to the character and appearance of the area and conflict with the objectives of safeguarding the countryside as set out in Policies SWDP 1, SWDP 2, SWDP 21 and SWDP 25. The conflict with these policies would significantly and demonstrably outweigh the benefits when assessed against the development plan and the Framework taken as a whole.

Conclusion

21. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Consequently, the appeal should be dismissed.

J D Clark

INSPECTOR