



Appeal Decision

Site visit made on 26 July 2024

by S Rawle BA (Hons) Dip TP Solicitor

an Inspector appointed by the Secretary of State

Decision date: 16th August 2024

Appeal Ref: APP/J1860/W/24/3339325

The Lovells, Garrett Bank, Welland, Malvern WR13 6NF

- 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 Mr Ross Kane against the decision of Malvern Hills District Council.
 - The application Ref is M/22/01219/FUL.
 - The development proposed is the erection of 1 no. dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues 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
 - the effect of the proposal on the character and appearance of the area, including the setting of the Malvern Hills National Landscape (MHNL).

Reasons

Whether or not an appropriate location

3. The appeal property comprises land generally to the west of The Lovells. 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.
4. The appeal site does not meet any of the specific limited types of development set out in SWDP 2. Further, the appeal site falls outside the Welland Development Boundary (WDB) contained in the adopted version Welland Neighbourhood Plan 2021-2041 (WNP) and consistent with the SWDP, under Policy DB1 it is considered to fall within the open countryside where development proposals will be assessed against relevant local and national policies and policies within the WNP. Similarly, Policy HLP of the WNP sets out that in terms of housing land provision, a windfall development allowance of 12

dwelling is assumed and that windfall development will be supported in sustainable locations primarily within the WDB and providing it accords with national and local policies and policies within the WNP.

5. I note that the appeal site is located just outside the village of Welland. The Council accept that the required services and facilities for day-to-day life are capable of being accessed via a choice of sustainable transport options. I agree and consequently, the proposal would accord with the relevant part of the National Planning Policy Framework (the Framework) as the range of day-to-day facilities available in the village within walking and cycling distance, would give future residents a genuine choice of sustainable modes of transport, which would in turn help reduce reliance on the private car. The proposal would also accord with Policy SWDP 4 of the SWDP that seeks to ensure that proposals offer genuinely sustainable travel choices.
6. Accordingly, although the proposal would conflict with Policy SWDP 2 as the appeal site is located outside the defined development boundary of Welland, the site is well located to services and facilities to meet day-to-day needs. That said, I agree with the previous Inspector who determined an appeal on the same site¹ who observed that the development plan remains the adopted plan and contains a settlement hierarchy that was soundly based on an assessment of the size and function of settlements as well as the facilities they contain.
7. He went on to set out that although accessibility was material in the determination, it did not outweigh the harm the proposed development would do to undermine the Council's development plan strategy for housing. Again, I agree, and I am not persuaded that the proposal accords with the overarching purpose of Policy SWDP 2. As a result, relevant development plan policies, including those contained within the WNP, which specifically indicate that they need to accord with relevant local policies do not support the introduction of a dwelling at the appeal site.
8. In reaching that view I note the appellant highlights that emerging policies being formulated as part of the SWDP review appear to be less restrictive. However, given the stage the emerging plan has reached in the plan making process it has very limited weight.
9. I therefore conclude that the proposed dwelling would be located in the open countryside, where Policy SWDP 2 of the SWDP seeks to strictly control development. However, given my finding that the proposal would accord with Policy SWDP 4 of the SWDP which seeks to ensure that proposals offer genuinely sustainable travel choices, I give the conflict moderate weight in the determination of the appeal.

Character and appearance

10. Like the previous Inspector, I observed that The Lovells is a detached property accessed via a long private access track off Gloucester Road and that the appeal site lies outside of but in the setting of MHNL.
11. The land has the appearance of an undeveloped green space. Although the previous Inspector noted that the grass was overgrown centrally, at the site visit I observed that the appeal site now has the appearance of a lawned area and includes garden paraphernalia including a trampoline and a football goal.

¹ APP/J1860/W/21/3284286

This ensures that the appeal site appears as the front lawn of the attractive red brick detached property which sits comfortably on the plot set back from the road.

12. There is a combination of mature vegetation and tall trees that surround the appeal site on three sides, with the access track on the other. Notwithstanding that it has not been specifically identified as a local or neighbourhood green space in the WNP, nevertheless, the appeal site being located between the road and The Lovells creates a significant sense of verdant openness which makes a significant contribution to the character and appearance of the area and to the setting of the MHNL.
13. In comparison to the previous appeal proposal, there have been material changes made, as the proposal before me would introduce only one dwelling which would be single storey and would have a height significantly lower than surrounding properties. The contemporary architectural design would also be of a high quality, and I do not have any in principle concern about the number of bedrooms proposed, which would be comparable to a recently approved dwelling not far from the appeal site.
14. However, to accommodate the floorspace on one level, the footprint of the proposed dwelling would be spread over a significant portion of the rear part of the appeal site. I have taken account of the appellant's Landscape and Visual Impact Statement (LVIS) but given the contribution the appeal site makes to the character and appearance of the area, the introduction of the proposed dwelling on this frontage plot would unacceptably harm the prevailing spacious character of the area and I afford significant weight to that harm. Moreover, given this harm, the proposal has not been sufficiently sensitively located or designed to adequately minimise the adverse impact on the setting of the MHNL.
15. Due to the existing vegetation which would largely be retained, I accept that views from public vantage points would not be significant. However, as recognised by the LVIS some views would be possible from the MHNL and from the St James Close scheme which would have a very small negative impact initially improving over a 10-year period. Moreover, glimpsed views would be possible through the access road and obviously anyone visiting The Lovells would be aware of the introduction of the proposed dwelling on the existing front lawn area. In any event, the lack of significant views does not justify harmful development at the appeal site.
16. I therefore conclude that the proposed development would unacceptably harm the character and appearance of the area, including the setting of the MHNL. As outlined, 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, SWDP 23 and SWDP 25 of the SWDP, which among other things seek to ensure development integrates effectively with its surroundings, are appropriate with the character of the landscape setting and would not have a detrimental impact on the natural beauty of a National Landscape.
17. The proposal would also be at odds with the Framework which seeks to ensure development is sympathetic to local character, including the landscape setting and should not have an adverse impact on the setting of a National Landscape.

Other Matters

18. I turn now to consider housing supply. It is common ground that the Council cannot demonstrate an adequate supply of housing land. The appellant has provided information which shows that according to the latest Housing Land Supply Report published in April 2024, the number of years supply is 3.47 years. This is well below Government expectations. Although the proposal would undoubtedly be valuable in boosting housing stock in circumstances where there is an existing shortfall, given that it would only result in the addition of one dwelling that tempers its weight.
19. 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 services and local facilities in the village.
20. Overall, I afford the totality of the benefits associated with the provision of one dwelling modest weight in the determination of the appeal. In reaching that view I have had regard to the Written Ministerial Statement and draft National Planning Policy Framework published on 30 July 2024. National policies relating to housing land supply are proposed to change as part of this consultation and consequently it has been necessary to consult the parties.
21. However, given that any changes are at the consultation stage they can only be given limited weight in the determination of the appeal. That said, I note that the appellant considers that the consultation draft reinforces their view that the need to meet a four-year supply does not reduce the weight to be attached to the benefits of addressing identified housing land supply shortfall. Even if I were to take account of the proposed changes which if implemented would scrap the four-year housing supply target, that would not change the weight I would afford the benefits of the scheme. That is because I have already taken account of the fact that the Council's housing supply figures are well below Government expectations. I have also taken account of the fact that the appeal site is located close to the village and is sustainably located. However, the weight I afford to this matter is tempered by the fact it would result in only one additional dwelling.
22. I have taken account of the fact that the appellant has made satisfactory arrangements to ensure an adequate contribution would be secured for affordable housing. However, that is a neutral factor in the determination of the appeal.

Planning Balance

23. I have afforded some matters weight as outlined above and as set out I afford the totality of the benefits modest weight in the determination of the appeal.
24. On the other hand, I have found that contrary to the relevant policies of the development plan, the appeal site would not be a suitable location for residential development and would have an unacceptably harmful impact on the character and appearance of the area, including the MHNL. I have afforded these matters moderate and significant weight respectively. As a result, the proposal would conflict with the development plan and the Framework as a whole.

25. As set out above, based on the available evidence the Council can only demonstrate a housing land supply of 3.47 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.
26. 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.
27. In reaching that view I have taken account of the other planning appeal decisions that the appellant referenced in their planning statement. However, the circumstances of these other cases are materially different from the proposal before me. For example, in relation to the case at Leigh Sinton Farms,² although Paragraph 11(d) of the Framework is also engaged, the proposal was for 45 residential dwellings and therefore the weight given to the benefits of the proposal relative to the harm were significantly different from the case before me.
28. In the cases at Instones, Leigh Sinton³; Apostles Oak Cottage, Amberley⁴; The Forge, Eardiston⁵; Woodview, Drakes Broughton⁶ and Middleton Cottage, Salwarpe⁷ the Inspector in each of those cases did not find the proposed developments would harm the character and appearance of the area. That is materially different to my findings and clearly results in an entirely different planning balance.
29. It follows that the other examples are materially different as is the weight that the Inspectors have afforded the relevant ingredients that they have had to balance. Consequently, these other decisions 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. Therefore, the appeal should be dismissed.

S Rawle

INSPECTOR

² APP/J1860/W/21/3289643

³ APP/J1860/W/21/3289103

⁴ APP/J1860/W/16/3144810

⁵ APP/J1860/W/16/3150378

⁶ APP/H1840/W/18/3197607

⁷ APP/H1840/W/18/3218524