



Appeal Decision

Site visit made on 23 July 2024

by R Kent BA (Hons) MTP DipM MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 August 2024

Appeal Ref: APP/J1860/W/24/3340042

Brookfield, Shoulton Lane, Hallow, Worcester WR2 6PU

- 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 Mr L Morgan against the decision of Malvern Hills District Council.
 - The application ref is M/23/01799/PIP.
 - The development proposed is Permission in Principle for the construction of up to 4no. self-build dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposal is for permission in principle. Planning Practice Guidance advises that this is an alternative way of obtaining planning permission for housing-led development. The permission in principle consent route has 2 stages: the first stage (or permission in principle stage) establishes whether a site is suitable in-principle and the second ('technical details consent') stage is when the detailed development proposals are assessed. This appeal relates to the first of these 2 stages.
3. The scope of the considerations for permission in principle is limited to location, land use and the amount of development permitted. All other matters are considered as part of a subsequent Technical Details Consent application if permission in principle is granted. I have therefore determined the appeal accordingly.
4. Whilst the planning application form refers to the site location as "Shoulton Road" I note that it is referred to as "Shoulton Lane" on the site location plan, Council decision notice and Appellant's Statement of Case. I have therefore used that name in the heading above.

Main Issue

5. The main issue is whether the site is suitable for residential development, having regard to its location, the proposed land use and the amount of development.

Reasons

Location

6. The site is separated from the village of Hallow to the north by fields and lies well beyond the village Development Boundary identified in the South Worcestershire Development Plan 2016 (SWDP) and Hallow Neighbourhood Development Plan 2021 (HNDP). Notwithstanding the adjacent group of houses, it falls within the open countryside and has a distinctly rural character.

7. In the open countryside, SWDP Policy SWDP 2 requires that development is strictly controlled. The reasoned justification for the policy explains that sites beyond development boundaries are generally less sustainable as access to local services and employment opportunities tends to be poorer. In order to protect the high quality of the countryside, which is deemed to be an important planning attribute of the area, development within it is therefore limited to specific types of development. The appeal proposals do not fall within any of these types. As a result, the relevant development plan policy does not support the introduction of new dwellings at the appeal site.
8. Furthermore, Policy SWDP 4 requires development to minimise the demand for travel and offer genuinely sustainable travel choices. Policy SWDP 21 requires new development to integrate effectively with its surroundings and, under criterion B (ix), maximise opportunities for pedestrian and cycle linkages to the surrounding area and local services. Schemes should be generally accessible for all users, including those with disabilities.
9. Hallow is defined as a Category 1 settlement in Annex D of Policy SWDP 2. This means it has at least 4 key services and has access to a range of transport options. I noted from my site visit that the services in the village include a shop, Post Office, pub, café and school together with some other business uses. However, from the evidence the only bus service along Shoulton Lane is a school bus and the village is not easily accessed from the appeal site by foot. The most direct route would be via a public footpath around the edge of a field. I walked the footpath during my site visit and the narrowness of the path and its rough surface would make access difficult for some users, especially in inclement weather or after dark. The alternative, indirect route would be along Shoulton Road which is unlit and without footways. Whilst unlit roads are a common feature in rural locations, the absence of lighting and footways in this instance reduces the attractiveness of the route, and thereby the likelihood of it being used by pedestrians to access the village. Although it would be possible to cycle to Hallow, overall there would be a limited choice of genuinely sustainable travel options depending on individual circumstances. The future occupants might be able to benefit from supermarket deliveries, however travel by private car would still be likely to be a necessity. The provision of electric vehicle charging points would be a matter for the technical details stage if I am minded to allow the appeal. However, their provision in itself would not improve the accessibility of the development.
10. Reference has been made to a previous planning permission for the 'Old Piggery.' Each development must be considered and determined on its own merits and I am not aware of the planning issues for that site. Notwithstanding this, that development does not justify up to four further dwellings in the proposed location.
11. Therefore, when judged against the development plan policies, the proposal would not be in a suitable location. It would be harmful to the strategy for the control of development in the countryside and would undermine the objective to promote genuinely sustainable travel choices for all users. As such, there would be conflict with the sustainable development principles in Policy SWDP 1, the locational strategy in SWDP 2 which seeks to control development in the countryside; the requirements of SWDP 4 and SWDP 21 to minimise the demand for travel and promote accessibility for all users; and with the policies

in the National Planning Policy Framework (the Framework) which promote sustainable transport.

Land Use and amount of development

12. The current use as a menage and field lies between a row of houses and a separate dwelling, 'The Old Piggery.' The site slopes down towards 'The Old Piggery' and a substantial hedgerow screens it from the road. There are fields to the north, west and south. The equestrian use is not prominent in the landscape and in conjunction with the field adjacent to the menage is compatible with the rural character of the surrounding countryside, which is not subject to any specific landscape designation.
13. In contrast, the development of the site for up to 4 dwellings would result in the spread of residential development along the road frontage into the countryside. This would have an urbanising effect which would cause harm to its rural character and appearance. Whilst the form and design of the development are matters for the technical details stage, the rural character and appearance of the countryside would be harmed by the extension of the ribbon of houses along the road, however it was designed or laid out. This would be the case even for a single dwelling on the site.
14. The site currently forms a significant gap between 'Brookfield' and 'The Old Piggery.' As a result, it contributes to the openness of the countryside along this part of Shoulton Lane which would be reduced or lost entirely should it be developed for up to 4 dwellings. This would cause significant harm to the character and appearance of the countryside and would not constitute an acceptable form of infilling.
15. Policies SWDP 2 and SWDP 13 are supportive of the re-use of previously developed land (PDL). However, SWDP 2 F makes clear that development proposals should be of an appropriate scale and type with regard to the local landscape character, location and the availability of infrastructure. Whilst the site includes a menage, which is PDL, for the reasons given the proposal would not be in an appropriate location or compatible with the local landscape character.
16. As a consequence, the proposed land use and amount of development would conflict with SWDP 2, SWDP 21 and SWDP 25 which require development to complement the character of the area and the site's landscape setting.

Other Considerations

17. Set against the harm identified, there would be economic, social and environmental benefits associated with the proposal. It would generate construction jobs during the period of its development; help meet local housing needs; generate custom for local services and facilities in the village and potentially other nearby villages; provide opportunities for ecological enhancement including the re-use of PDL; and provide the opportunity at the technical design stage to provide energy efficient, high quality homes. Given the relatively small nature of the development, these benefits however would be modest.
18. As well as meeting general housing needs, the proposal would also provide a site for up to 4 self-build dwellings. The Framework highlights the importance of a sufficient amount of variety of land coming forward where it is needed and

that the needs of groups with specific housing requirements are addressed. These groups include people wishing to commission or build their own homes.

19. Footnote 29 of the Framework makes clear that *"under section 1 of the Self Build and Custom Housebuilding Act 2015, local authorities are required to keep a register of those seeking to acquire serviced plots in the area for their own self-build and custom house building. They are also subject to duties under sections 2 and 2A of the Act to have regard to this and to give enough suitable development permissions to meet the identified demand. Self and custom-build properties could provide market or affordable housing"*
20. The Council Officer's Report on the proposals identifies a shortfall in the self-build housing supply of 37 units as of October 2023. It acknowledges that there is a significant undersupply in the delivery of self-build dwellings in the District. The provision of up to 4 additional units would contribute towards meeting this shortfall and would therefore be a significant benefit of the scheme.
21. Hallow Parish Council has referred to paragraph 14 of the Framework. The HNBP was made in July 2021 and is therefore within 5 years of the date of this decision. Objective 1 of the HNBP is to promote sustainable housing growth within the Development Boundary for Hallow village and on allocated sites. Whilst the justification for Policy HAL1 explains that the strategic intention is to direct new development to within the Development Boundary in order to help protect the open countryside, this is not carried through into the policy wording itself. Policy HAL1 makes an allocation to meet its identified housing requirement in conjunction with other housing commitments and completions. The policy however only addresses the specific allocation at Greenhill Lane and does not deal with development proposals outside the Development Boundary. Such proposals are instead addressed in SWDP Policy SWDP 2. HNBP Policy HAL2 relates to proposals of more than 5 units and therefore is not applicable in this case.
22. This issue was addressed in an appeal decision from May 2023 to which I have been referred. That appeal was in respect of an application for permission in principle at Land at North Lodge, Main Road, Hallow¹ where the Inspector concluded that the proposal was not in conflict with the adopted policies of the HNBP. Whilst paragraph 14 was updated in the revised Framework, I have found no reason based on the evidence to come to a different conclusion to that Inspector on the HNBP's policy approach to new development outside the Development Boundary.
23. Policy SWDP 15 requires a financial contribution towards local affordable housing requirements from sites of less than 5 dwellings. Policies SWDP 22 and SWDP 29 requires biodiversity enhancement and the provision of sustainable drainage systems respectively. These would be matters for the technical details stage if I were minded to allow the appeal.

Planning balance

24. For the reasons given, the proposals would harm the strategy for the control of development in the countryside and would undermine the objective to promote genuinely sustainable travel choices. It would cause significant harm to the

¹ Appeal reference APP/J1860/W/22/3304685

character and appearance of the countryside. The proposals therefore conflict with policies SWDP 2, SWDP4, SWDP 21 and SWDP 25.

25. The SWDP dates from 2016 but the weight to be attached to it does not hinge on its age. Paragraph 225 of the Framework makes it clear that due weight should be given to existing policies according to their degree of consistency with the Framework. The need for sustainable transport and safe and suitable access for all users is recognised in the Framework which also recognises the intrinsic character and beauty of the countryside. Therefore, the conflict with SWDP 2, SWDP4, SWDP 21 and SWDP 25 should be given significant weight in this appeal.
26. As there are no policies which positively favour development of this kind in this location and as the proposal would be contrary to the policies referred to above, there would be conflict with the development plan as a whole.
27. The parties are not in agreement regarding the extent of the Council's current housing land supply. However, the evidence shows that the Council is unable to demonstrate a 5 year housing land supply and that the extent of the shortfall is significant. In these circumstances, Paragraph 11(d) of the Framework is engaged. This indicates 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. Policy SWDP 1 sets out a similar balancing exercise.
28. As described above, the addition of up to 4 self-build houses would be a benefit to which I give significant weight. Due to the relatively small nature of the proposal, the other benefits associated with the development, including its contribution to the Council's overall housing land supply shortfall would be modest even taking account of the Framework's objective of significantly boosting the supply of housing. I therefore give them moderate weight.
29. The harm to the strategy for the control of development in the countryside and the conflict with the locational strategy carry significant weight. As the site would still be accessible by foot and cycle for some people, I attribute moderate weight to the lack of sustainable travel choices. Even though part of the site is PDL, the proposals would cause harm to the character and appearance of the countryside and I give this substantial weight.
30. Consequently, the adverse impacts of the development would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework taken as a whole. As a result, the presumption in favour of sustainable development, including that in SWDP 1, does not apply.

Conclusion

31. The proposal conflicts with the development plan as a whole and the material considerations, including the Framework, do not indicate that the appeal should be decided other than in accordance with it. For the reasons given above the appeal should be dismissed.

R Kent

INSPECTOR