



Appeal Decision

Site visit made on 21 August 2024

by B Phillips BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th September 2024

Appeal Ref: APP/H1840/W/24/3344335

Broadgrove Nursery Farm Shop, Eckington Road, Birlingham, Worcestershire WR10 3DA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant permission in principle.
 - The appeal is made by Mr T Mence against the decision of Wychavon District Council.
 - The application Ref is W/23/02328/PIP.
 - The development proposed is the construction of up to 4no. dwellings.
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Decision

1. The appeal is allowed and permission in principle is granted for the construction of up to 4no. dwellings at Broadgrove Nursery Farm Shop, Eckington Road, Birlingham, Worcestershire WR10 3DA in accordance with the terms of the application, Ref W/23/02328/PIP.

Preliminary Matters

2. I have removed the words 'permission in principle' from the description above, as it does not describe development.
3. The proposal is for permission in principle. The Planning Practice Guidance (PPG) 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.
4. 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 TDC application if permission in principle is granted. The Council's objections relate to the location and character and appearance. I have determined the appeal accordingly.
5. The Government published in December 2023 a revised version of the National Planning Policy Framework (the Framework). The Council and the appellant have referenced this document within their appeal statements and as such I am satisfied that no party would be prejudiced by my also making reference to the Framework in this decision.

Main Issue

6. 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, with specific reference to access to services and facilities and the character and appearance of the surroundings.

Reasons

Location and accessibility

7. Policy SWDP2 South Worcestershire Development Plan, (2016) (DP) sets out the development strategy and site allocations within the plan area. This policy seeks to direct new development towards sustainable areas within development boundaries. The application site lies outside the defined development boundary of any identified settlement and is therefore classed as the open countryside.
8. Part C of this policy sets out circumstances where new dwellings in the open countryside would be permissible, none of which apply in this case. As such the proposal conflicts with the development strategy and settlement hierarchy of DP Policy SWDP2.
9. DP Policy SWDP4 sets out that developments will minimise demand for travel and offer genuinely sustainable travel choices.
10. The appeal site lies nearby two settlements, Defford and Birlingham, which have various services and facilities. However, access to the services and facilities of Defford would require the use of the A4104, and whilst there is some pavement/footpath along the highway for part of the distance, I observed that for part there is no such path, and walkers would be reliant on the unlit narrow grass verge next to the highway. Whilst the distances are not excessive, this would not provide safe or convenient access for pedestrians nor cyclists, given the likely speed of traffic.
11. The highways to Birlingham are more traditionally rural and quiet, and whilst again, there is no footpath, given the lower speed and likely amount of traffic and the short distance involved, I am satisfied that, in this instance, there would be safe or convenient walking or cycling access to the facilities and services of Birlingham.
12. However, Annex D of the DP sets out that Birlingham is a category 4b settlement with a low / medium level of public transport provision and low services / facility provision.
13. DP Policy SWDP2 sets out that these settlements '*tend to be very small and at best offer one or two local services. Their role in providing additional future development is limited.*' Whilst the policy sets out that infill development within the defined boundary is acceptable in principle, the proposal does not meet these requirements, and in any case, the policy continues that '*this is subject to the more detailed Plan policies.*'
14. I observed that Birlingham offers a village hall, church, cricket club and a public house. These facilities (along with a nursery school on Eckington Road) alone would not meet the day to day requirements of nearby residents.
15. The settlement of Eckington has more facilities and services, however this is located some distance from the appeal site. In addition, the B4080 which connects the two is unlit, with largely no pavement or footpath and is likely to accommodate high speed traffic. This would again not provide safe or convenient walking or cycling access to facilities or services.

16. The nearest bus stop on Eckington Road is only served by school buses and the bus stops within Defford, as set out above, are not safely or conveniently accessed. As such, whilst opportunities to maximise sustainable transport solutions will vary between urban and rural areas, the site is not well connected in this respect.
17. Accordingly, the intended future occupiers of the new dwellings would be likely to have a high reliance on a private motor vehicle to access day to day services.
18. Therefore, when judged against local policies, the proposal would not be in a suitable location. Permitting it would be harmful in that the strategy for the distribution of housing would be undermined and as car borne travel would be encouraged.
19. I conclude therefore that the appeal site is not suitably located for the proposal as it would undermine the strategic objectives of the development plan and would conflict with the sustainable development principles and plan-led approach endorsed by the Framework. It would also not be located in an accessible location and would be dependent on car travel. The proposal would conflict with DP Policies SWDP2 and SWDP4, in this regard, and the overarching sustainable development goals of DP Policy SWDP1.

Character and appearance

20. The appeal site sits at the end of a linear row of dwellings, with a common set back facing the highway. The existing site is partly made up of nursery buildings, now dilapidated, which sit at the rear of the adjacent residential buildings.
21. The refusal reason states that the appeal site falls within the Principal Timbered Farmlands Landscape Type. However, the delegated report, including comments from the Landscape Officer, refer to the site being within the Principal Village Farmlands landscape type. This is described by the Supplementary Planning Guidance document 'Landscape Character Assessment' (SPD) as "*open, rolling landscape characterised by a nucleated pattern of expanded rural villages, surrounded by large arable fields.*"
22. The site does not have a typical appearance or character of the open countryside, given that it is previously developed land, as an established nursery site, adjacent to existing residential properties. Moreover, a recent planning application¹ has granted consent for 7 units '*with shutter doors for employment office or commercial small business use*' on land including the appeal site, which includes an extensive area of hardstanding. This permission is implementable, and I have no reason to believe that it is not a realistic prospect that such development would be carried out if the appeal were dismissed. As such, this fall-back position carries considerable weight.
23. No detailed plans are provided at this stage for the layout of the up to 4 dwelling scheme and the position or scale of the dwellings, however, it is likely that the footprint of 4 dwellings and amount of hardstanding would be smaller than that of the previously approved scheme, and similar to that of the existing structures on site. In this respect therefore, when compared to this previously approved scheme, whilst the approved commercial/business units would have a

¹ Reference number 23/00042/FUL

'timber finish' and significant surrounding landscaping, built form would not extend into the countryside. In addition, the height and massing of the of the dwellings, their materials and suitable landscaping could be controlled and secured at TDC stage to ensure that they sit comfortably within the existing context and again do not have a greater visual impact over the existing/approved scheme.

24. The proposed dwellings would be set back from the road further than neighbouring dwellings; however, the siting of the built form would match that of the existing and approved structures. 4 dwellings would not appear out of place or incongruous therefore in respect of the immediate context, nor the wider 'nucleated pattern' of the wider Principal Village Farmlands landscape type character. Even if the site is located within the Principal Timbered Farmlands Landscape Type, there is also no indication before me that the proposal would be contrary to this landscape character type.
25. I conclude that the siting of the proposal would not harm the character and appearance of the surroundings. There is therefore no conflict with DP Policies SWDP21 and SWDP25, which require development to integrate effectively with its surroundings and character of the landscape setting and complement the character of the area, or part iii of DP Policy SWDP2, which requires development to safeguard and wherever possible enhance the open countryside. There is also no conflict with the protection of landscape goals of the SPD and the Framework.

Planning Balance

26. Set against the harm identified the proposal would contribute to the supply of housing and go towards addressing the existing shortfall in housing land supply. The scale of the proposal means this factor attracts limited weight.
27. There would be benefits arising from the construction period and future spend of occupants giving support to the local services and facilities in nearby villages. However, as construction benefits would be short term and the scheme is for 4 units, the weight I give these factors is small.
28. The proposal would conflict with the housing strategy in the development plan and where it seeks to ensure development is in accessible locations. DP Policies SWDP1, SWDP2 and SWDP4 are broadly consistent with the Framework where it states that the planning system should actively manage patterns of growth. Nonetheless, it would re-use previously developed land and not generate a significant number of vehicle trips, particularly compared to the previously approved scheme on this site. Moreover, the site is not a considerable distance from nearby settlements. Therefore, I give the conflict with these policies moderate weight. Nevertheless, the scheme would conflict with the development plan as a whole.
29. The Council confirm that, as set out in the appeal decision referenced by the appellant², they are unable to demonstrate a 5 year housing land supply. The Council does not dispute the appellants assertion that the figure currently stands at 2.65 years supply. The presumption in favour of sustainable development outlined in Paragraph 11d)ii of the Framework is therefore engaged.

² Appeal reference APP/H1840/W/21/3289569

30. The proposal would align with the Framework where it seeks to significantly boost the supply of housing and acknowledges that small-scale developments can make an important contribution to meeting the housing requirement and be built out quickly. The Framework also seeks to make use of previously developed land. Whilst the scale of the proposal is limited, given the considerable scale of the shortfall identified, this attracts moderate weight.
31. The economic and social benefits from the build and occupation of the dwelling as well as support for local services, facilities and the community, including those in other villages would be limited given the size of the development, and their weight in favour of the scheme is small.
32. The proposal would conflict with the Framework where it seeks to promote sustainable transport, actively managed patterns of growth and that appropriate opportunities to promote sustainable transport modes can be taken up. Given the scale of the scheme and associated movements, I give this moderate weight.
33. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that applications for planning permission, and therefore appeals, must be determined in accordance with the development plan, unless material considerations indicate otherwise. The proposal benefits from the presumption of sustainable development as outlined in Paragraph 11d)ii of the Framework. In this instance, the adverse impacts of granting permission would not significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
34. On the basis of the individual merits of the scheme, the material considerations indicate that planning permission should be granted notwithstanding the conflict with the development plan.

Conditions

35. PPG³ indicates that it is not possible to impose conditions as the terms of any permission in principle must only include site location, type of development and amount.

Conclusion

36. I conclude that, for the reasons given above, the appeal is allowed.

B Phillips

INSPECTOR

³ Paragraph 020 Reference ID: 58-020-20180615