



Appeal Decision

Site visit made on 23 May 2024

by M Aqbal BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 September 2024

Appeal A Ref: APP/H1840/W/23/3336003

Land off Broadway Road, Childswickham, Worcestershire WR12 7HD

- 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 Stephen Wreford, Appletree Ventures Limited against the decision of Wychavon District Council.
 - The application Ref is W/23/01193/FUL
 - The development proposed is construction of 9 new dwellings with garages, new access & associated landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for construction of 9 new dwellings with garages, new access and associated landscaping at Land off Broadway Road, Childswickham, Worcestershire WR12 7HD, in accordance with the terms of the application Ref W/23/01193/FUL, and subject to the Schedule of Conditions attached to this Decision.

Preliminary matter

2. A previous planning application for development at the appeal site was refused and is the subject of another appeal. I have dealt with the other appeal under a separate Decision.

Applications for costs

3. An application for costs was made by Mr Stephen Wreford, Appletree Ventures Limited against Wychavon District Council. This application is also the subject of a separate Decision.

Background and Main Issues

4. One of the Council's reasons for refusal relates to insufficient information in respect of the provision of adequate visibility splays along Broadway Road. The Council advises that this was based on the original response from the Highway Authority that a speed survey was required to establish the 85th percentile speeds in both directions to inform the required visibility splays. Subsequently, a Transport Statement was submitted, which has been reviewed by the Highway Authority as part of this appeal. The Council has confirmed that the proposed visibility splays, would be appropriate for the appeal site and proposal. As such, the Council no longer wishes to contest this refusal reason. I have also considered this and agree with the Council's conclusion.

5. Accordingly, the main issues are:

- i) Whether the proposal is in a suitable location for housing having regard to local and national planning policies;
- ii) the effect of the proposal on the character and appearance of the area; and
- iii) whether the proposal makes appropriate provision for affordable housing.

Reasons

Suitability of location for housing

- 6. The appeal site is located outside but adjacent to the defined development boundary of Childswickham. Therefore, and in accordance with Policy SWDP 2 (C) of the South Worcestershire Development Plan ('Development Plan') it is classed as being within open countryside.
- 7. Development Plan Policy SWDP 2 sets out a settlement hierarchy, which in the identified villages makes provision for infill development within defined development boundaries only, and the policy details a development strategy encouraging the effective use and re-use of accessible, available, and environmentally acceptable brownfield land. Criteria C of this Policy also restricts development in the open countryside to certain exceptions. The proposal does not fall within any of the exceptions for allowing development in the countryside as detailed in Policy SWDP 2 of the Development Plan.
- 8. Under Paragraph 4, the reasoned justification to Policy SWDP 2 of the Development Plan, says that the high quality of the open countryside is an important attribute of the area and that sites beyond development boundaries generally are less sustainable as access to local services tends to be poorer and it is, therefore, appropriate that development in the open countryside is restricted.
- 9. Development Plan Policy SWDP 4 requires that proposals minimise demand for travel and offer genuinely sustainable travel choices.
- 10. These policies are broadly consistent with the National Planning Policy Framework ('the Framework'), which states that to promote sustainable development in the rural areas housing should be located where it will enhance or maintain the vitality of rural communities; seek opportunities to promote walking, cycling and public transport; limit the need to travel, and offer a genuine choice of transport modes.
- 11. Childswickham is a category 4 village, which is a lower order settlement with regard to facilities and access to services. Facilities within the village are limited to a public house, church and a community hall.
- 12. Other day to day services and amenities are located in Broadway, which is about 2.5km walking distance from the centre of the site. Because of limited footways and no street lighting, the walking route would be unappealing to pedestrians, especially in the dark or during inclement weather.
- 13. Whilst Broadway is within the accepted 5km cycling distance for short/medium trips, there is no offroad cycle infrastructure and the lack of street lighting means cycling along the highway is not encouraged, especially by less experienced or novice cyclists.

14. As part of this appeal, the appellant has referred me to Manual for Streets, which says that: "Cyclists should generally be accommodated on the carriageway. In areas with low traffic volumes and speeds, there should not be any need for dedicated cycle lanes on the street." Whilst the Transport Statement includes some data on traffic volumes and speeds, on the level of information before me, I cannot be certain that local roads are safe for cyclists.
15. Although there are bus stops within 400m of the site, existing bus services are limited. Service 606 operates just three buses per day, Monday to Saturday and Service 608 is a single Thursday service. Such limited bus services are unlikely to encourage residents to travel by bus for local services. The appellant advises that it is also possible to access Evesham in the north via public transport. However, I have limited information in respect of this.
16. The scheme would include the provision of electric charging points at each dwelling, and when the dwellings are completed the purchasers could be provided with sustainable travel packs, which would include information on the local bus services, cycle and walking routes and how to utilise means of transport other than the car. While I support such initiatives, there is no certainty that future occupiers would use electric vehicles, and because of the site's poor accessibility, take up of the other options is likely to be limited. Because of this, visitors to the development are also likely to be largely reliant on private motor vehicles.
17. Because of its location, the appeal site's accessibility would be similar to nearby developments within the settlement. Even so, this in itself is not a reason to encourage further development in areas with poor accessibility, contrary to the aims of the Development Plan.
18. Therefore, and even when taking account of the Framework, which acknowledges that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, the location of the appeal site does not offer genuinely sustainable travel choices to a range of nearby shops, facilities and services. As such, occupiers of the proposed dwellings would be largely reliant on private car travel.
19. For the above reasons, the proposal would introduce new development in an unsuitable countryside location with poor access to shops, facilities and services by sustainable modes of travel. This conflicts with Development Plan Policy SWDP 2 and does not support the aims of Development Plan Policy SWDP 4.

Character and appearance

20. The appeal site is a broadly rectangular parcel of agricultural land, located along Broadway Road. The site is bordered to the north by a row of trees and beyond this and to the west of the site are fields. Along its southern boundary with the highway is a low hedgerow. An access track to the east separates the appeal site from dwellings along this part of the road. As an undeveloped field with an extensive road frontage, the appeal site is prominent and sensitive to change.
21. Also, the appeal site is located within the Landscape Type - Principal Village Farmlands, as identified in the County Council's Landscape Character Assessment. The Primary Key Characteristics of this Landscape Type are

'nucleated pattern of expanded rural villages' and 'arable/cropping land use.' Landscape Guidelines for the Landscape Type include 'retain pattern of strongly nucleated villages with associated low dispersal of settlement in between.'

22. Leedon Park to the south east of the appeal site mainly comprises low-lying mobile homes, screened by mature landscaping and is separated from the settlement by intervening fields. On the ground, this has limited effect on the character of the Landscape Type. Notwithstanding this, and some development to the east of the appeal site and to the west at Murcot Road and Hinton Road, Childswickham has a largely nucleated settlement pattern, which is contained to the south of Broadway Road.
23. I acknowledge that built development along Broadway Road gives the appeal site a village edge influence. Even so, the appeal site distinctly forms part of the swathe of land to the north and north east of Childswickham, which provides a largely development free rural setting for this village and reinforces its nucleated pattern.
24. The appeal site is also representative of its Landscape Type because of its landscape features and landform. Its overall sensitivity was examined in the submitted Landscape and Visual Assessment ('LVA') and judged to be of medium value based on the quality of its landscape features. On the evidence before me and my observations, I agree.
25. The layout of the proposed scheme reflects the linear pattern of development along Broadway Road. About half of the site area would be developed and the remainder would be retained as open space and augmented with new planting. With the exception of some removal to facilitate the proposed access arrangements and required visibility splays, the front hedgerow would be mainly retained. These design interventions would allow the proposed development to assimilate with the existing built development along Broadway Road.
26. Nevertheless, the extent of development proposed would result in some encroachment into the countryside and the part urbanisation of an undeveloped plot. The introduction of new development, north of the main built form of Childswickham, in combination with the development to the east, would further dilute its nucleated settlement pattern. Overall, there would be an adverse effect on the Principal Village Farmlands Landscape Type, which in my judgement would be less than significant.
27. Having considered the viewpoints identified in the LVA, any perceptible visual impact associated with the proposal would be localised from along Public Rights of Way ('PRoW') which pass near the appeal site (Viewpoints 3, 4 and 5 (Appendix 4) of the LVA) and Broadway Road.
28. Based on the LVA and my observations, during the construction of the development, a moderate, adverse visual effect would be experienced by users of the above PRoW and those living and travelling along Broadway Road. This level of effect would reduce after the construction stage. This would also diminish with distance from the site due to intervening landforms, development and landscaping. Overtime, when the new planting becomes established, this effect would be further minimised.

29. Although the visual effect of the proposed development would be localised and to some extent mitigated by the proposed landscaping and the adjacent development, the proposal would result in some harm to the landscape character of the area and therefore would fail to accord with Development Plan Policy SWDP 25, which requires that development proposals integrate with the character of the landscape setting. The aims of this Policy are consistent with the Framework for recognising the intrinsic character and beauty of the countryside.

Affordable housing

30. Development Plan Policy SWDP 15 requires that on sites of 5 – 9 dwellings, 20% of units should be affordable and be provided on site. The proposed scheme includes 2 affordable housing units, with a tenure split of 50% First Home (1 unit) and 50% Social Rent (1 unit). The dated and signed S106 Agreement includes an obligation which would secure the proposed affordable housing.
31. For the above reasons, the obligation in the submitted S106 Agreement is necessary in order to make the development acceptable in planning terms, directly related to the development, and reasonable in scale and kind. This accords with the tests that are set out in the Framework and Regulation 122(2) of the Community Infrastructure Levy Regulations (as amended).
32. Therefore, the proposed scheme makes acceptable provision for affordable housing in accordance with Policy SWDP 15 of the Development Plan.

Other considerations

33. The Council's housing land supply stands at about 3.81 years. Consequently, Paragraph 11d) ii of the Framework applies.
34. The delivery of 9 dwellings would positively contribute towards the Council's housing land supply and this would boost the delivery of homes in accordance with the Framework. The scheme would include on-site affordable housing and positively caters for an identified need for 3-bedroom properties in the area. Having regard to the Framework, I attach considerable weight to this.
35. The proposal would create employment during the build phase. Thereafter, new residents would enhance or maintain the vitality of rural communities, in accordance with the Framework.
36. The scheme would deliver Green Infrastructure above the Council's policy requirement. This includes a community orchard, which the appellant advises would provide benefits to the wider community. However, there is no mechanism to ensure that this would be managed and retained for the community in perpetuity. As such, I afford this limited weight. Nevertheless, the provision of Green Infrastructure together with the proposed landscaping would secure environmental and biodiversity enhancements.
37. When taking the Council's position on housing land supply, which indicates a housing shortage, I attach significant importance to the provision of new housing and the social, economic and environmental benefits associated with this. Together, the modest scale of the development (9 dwellings) and benefits associated with this attract more than moderate weight.

Other Matters

38. In addition to the above matters, third parties have raised concerns in respect of the effect of the proposal on flooding, drainage, wildlife and the loss of agricultural land. These matters were addressed in the Council's Planning Services Delegated Decision Report and did not form part of its reasons for refusing the proposal. I have also considered these matters and on the information before me, I see no reason why these factors, whether alone or in combination, would justify resisting the scheme.
39. Based on the available information, I am satisfied that the development would not have any unacceptable effect on the safe and efficient operation of the local highway network. There is also no substantive evidence that the proposal would have an adverse impact on local infrastructure, such as foul water management, electricity and gas and other services in the area.
40. Whilst I have been referred to previous refusals for development at the appeal site, I have assessed the scheme before me on its merits having regard to the site-specific circumstances and other considerations. Also, and for this reason it is unlikely that my Decision would set a precedent.

Conditions

41. I have considered the conditions put forward by the Council in light of the requirements of the Planning Practice Guidance and the Framework. In addition to the standard timescale condition for the implementation of the planning permission, I have imposed a condition specifying the approved drawings and documents in the interests of certainty.
42. To minimise the disruption caused by construction activity on neighbours and the environment a Construction Environmental Management Plan is both necessary and reasonable. The times for demolition, construction, and deliveries associated with the development could also be incorporated into this.
43. A condition requiring a Written Scheme of Investigation is necessary to record any archaeological interests of the site. To protect and enhance biodiversity, I have imposed a condition requiring an ecological mitigation and enhancement scheme.
44. A condition relating to foul and surface water drainage is necessary to avoid local pollution and manage flood risk. A condition to identify and deal with on-site contamination is required in the interests of safeguarding operatives, neighbours and occupiers.
45. In the interests of ensuring a high quality development and safeguarding the character and appearance of the area, I have imposed suggested conditions requiring details of proposed boundary treatments and landscaping.
46. A condition requiring details of any external lighting is necessary to safeguard the appearance and ecology of the site and area.
47. It is reasonable to impose conditions to secure a proportion of energy sources from renewable and/or low carbon measures, and to require electric vehicle charging points and water efficiency measures to promote sustainable forms of development. To ensure the proposal incorporates satisfactory broadband

facilities, I have specified a condition requiring this or alternative solutions to serve the approved dwellings.

48. I have specified conditions for the provision of the proposed access, parking and turning areas and the provision and retention of required visibility splays to ensure that the development does not prejudice highway safety.
49. Conditions 3-7 (inclusive) which prevent any development approved from commencing until they have been complied with, are considered fundamental to the development hereby approved. It is necessary for them to take the form of 'pre-commencement' conditions in order to have their intended effect. Where necessary and in the interests of clarity, flexibility and precision, I have altered the conditions to better reflect the relevant guidance.

Planning balance and conclusion

50. To develop the appeal site as proposed would be contrary to the Council's development strategy, which seeks to direct new development towards sustainable areas within development boundaries and safeguard the countryside. This and conflict with the relevant Development Plan policies amounts to harm. Even though the Council's development strategy is currently failing to deliver sufficient homes to meet its housing land supply target, this broadly aligns with the Framework. Accordingly, I still attach considerable weight to such harm.
51. I have also found that the proposed development would harm the landscape character of the area and this also conflicts with the Development Plan and similar aims of the Framework. However, the proposed scheme has been designed to reflect existing nearby development and any visual impact associated with this would be localised and mitigated by the proposed landscaping and adjacent development. As such, the harm to the character and appearance of the area would be limited.
52. Overall, I attach moderate weight to the above harm and development plan conflict.
53. On the other hand, the proposal would deliver 9 new dwellings, including on-site affordable housing. I have afforded this and the associated benefits more than moderate weight.
54. As a result, when assessed against the policies in the Framework, the adverse impacts associated with the proposal, would not significantly and demonstrably outweigh the benefits arising from this. Consequently, the presumption in favour of sustainable development does apply and this indicates that planning permission should be granted and the appeal allowed.

M Aqbal

INSPECTOR

Schedule of Conditions

1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

2) Unless where required or allowed by other conditions attached to this permission, the development hereby approved shall be carried out in accordance with the information (including details on the proposed materials) provided on the application form and the following drawings and documents:

537_AR_301_001-Site Location Plan,
537_AR_301_002-Existing Site Plan,
537_AR_331_001-Proposed Site Plan,
537_AR_231_001-Proposed Site Elevations ,
537_AR_131_004-Plot Type 1 GA,
537_AR_131_005-Plot Type 2 GA,
537_AR_131_006-Plot Type 3 GA,
537_AR_131_007-Plot Type 4 GA,

Proposed Site Access: Drawing Number 24415-02 Rev A.

Transport Statement – Prepared by David Tucker Associates, and

Preliminary Ecological Appraisal Report – Prepared by Indigo Surveys.

3) The development hereby permitted shall not commence until an ecological mitigation and enhancement scheme has been submitted to and approved in writing by the local planning authority. The scheme shall be based on the recommendations contained within the Preliminary Ecological Appraisal Report by Indigo Surveys dated 15 November 2022 and shall include an implementation timetable. Thereafter, the ecological mitigation and enhancement scheme shall be carried out in accordance with the approved details and timetable.

4) The development hereby permitted, including any ground clearance shall not commence until a Construction Environment Management Plan ('CEMP') has been submitted to and approved in writing by the local planning authority. Thereafter, the development shall be undertaken in accordance with the approved CEMP.

5) (A) No development shall take place until a programme of archaeological work, including a Written Scheme of Investigation, has been submitted to and approved by the local planning authority in writing. The scheme shall include an assessment of significance and research questions; and: 1) The programme and methodology of site investigation and recording. 2) The programme for post investigation assessment. 3) Provision to be made for analysis of the site investigation and recording. 4) Provision to be made for publication and dissemination of the analysis and records of the site investigation. 5) Provision to be made for archive deposition of the analysis and records of the site investigation. 6) Nomination of a competent person or organisation to undertake the works set out within the Written Scheme of Investigation. (B) The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under part (A) and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

6) The development hereby permitted shall not commence until a drainage scheme for the disposal of foul and surface water has been submitted to and approved in writing by the local planning authority. Thereafter, the approved drainage scheme shall be implemented in accordance with the approved details and completed before the first occupation of any of the approved dwellings.

7) Unless otherwise agreed by the local planning authority, development other than that required to be carried out as part of an approved scheme of remediation, shall not commence until parts 1 to 6 of this condition have been complied with:

1. A preliminary risk assessment must be carried out. This study shall take the form of a Phase I desk study and site walkover and shall include the identification of previous site uses, potential contaminants that might reasonably be expected given those uses and any other relevant information. The preliminary risk assessment report shall contain a diagrammatical representation (conceptual model) based on the information above and shall include all potential contaminants, sources and receptors to determine whether a site investigation is required, and this should be detailed in a report supplied to the local planning authority. The risk assessment must be approved in writing before any development takes place. 2. Where an unacceptable risk is identified a scheme for detailed site investigation must be submitted to and approved in writing by the local planning authority prior to being undertaken. 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 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. 3. Detailed site investigation and risk assessment must be undertaken, and a written report of the findings produced. This report must be approved by the local planning authority prior to any development taking place. The investigation and risk assessment must be undertaken by competent persons and must be conducted in accordance with the Environment Agency's "Land Contamination: Risk Management" guidance. 4. Where identified as necessary a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to identified receptors must be prepared and is subject to the approval of the local planning authority in advance of undertaking. The remediation scheme must ensure that the site will not qualify as Contaminated Land under Part 2A Environmental Protection Act 1990 in relation to the intended use of the land after remediation. 5. The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development, other than that required to carry out remediation, unless otherwise agreed in writing by the local planning authority. 6. Following the completion of the measures identified in the approved remediation scheme a validation report that demonstrates the effectiveness of the remediation carried out must be produced and is subject to the approval of the local planning authority prior to the occupation of any buildings. 7. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the local planning authority. An investigation and risk assessment must be undertaken and where necessary a remediation scheme must be prepared; these will be subject to the approval of the local planning authority. Following the completion of any measures identified in the approved remediation scheme a validation report must be

prepared, which is subject to the approval in writing of the local planning authority prior to the occupation of any buildings

8) Prior to the first occupation of the development hereby permitted, a plan indicating the positions, design, materials and type of boundary treatment to be erected at the application site shall be submitted to and approved in writing by the local planning authority. The boundary treatment shall be completed before the first occupation of the development hereby permitted and maintained for the life of the development.

9) Prior to the first occupation of the development hereby permitted, a scheme of landscaping shall be submitted to and approved in writing by the local planning authority. The landscaping scheme shall include: (i) a plan(s) showing details of all existing trees and hedges on the application site. The plan should include, for each tree/hedge, the accurate position, canopy spread and species, together with an indication of any proposals for felling/pruning and any proposed changes in ground level, or other works to be carried out, within the canopy spread. (ii) a plan(s) showing the layout of proposed tree, hedge and shrub planting and grass areas. (iii) a schedule of proposed planting - indicating species, sizes at time of planting and numbers/densities of plants. (iv) a written specification outlining cultivation and other operations associated with plant and grass establishment. (v) a schedule of maintenance, including watering and the control of competitive weed growth, for a minimum period of five years from first planting. All planting and seeding/turfing shall be carried out in accordance with the approved details in the first planting and seeding/turfing seasons following the completion or first occupation of the development, whichever is the sooner. The planting shall be maintained in accordance with the approved schedule of maintenance. Any trees or plants which, within a period of five years from the completion of the planting, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

10) Prior to the first occupation of the development hereby permitted, details of any external lighting to be provided in association with the development shall be submitted to and approved in writing by the local planning authority.

11) The development hereby permitted shall not be occupied until the access, turning and parking areas have been provided in accordance with Drawing 537 AR 331 001. Thereafter, these areas shall be retained and kept available for their respective approved uses at all times.

12) The development hereby permitted shall not be occupied until visibility splays are provided in accordance with Proposed Site Access: Drawing Number 24415-02 Rev A. Thereafter, the required visibility splays shall be maintained free of any obstruction.

13) Prior to the first occupation of any dwelling hereby permitted, secure cycle parking for each dwelling shall be provided in accordance with a scheme to be submitted to and approved by the local planning authority. Thereafter, the secure cycle parking shall be retained for the lifetime of the development.

14) Prior to its first occupation, each dwelling hereby permitted shall be fitted with an electric vehicle charging point, the specification of which shall be submitted to and approved in writing by the local planning authority. The electric vehicle charging points shall be retained for the lifetime of the development.

15) Prior to the first occupation of any dwelling hereby permitted, details of superfast broadband facilities or alternative solutions to serve the development shall be submitted to and approved in writing by the local planning authority. The submitted details shall include an implementation programme. Thereafter, the approved superfast broadband facilities or any alternative solutions shall be provided in accordance with the approved details.

16) Prior to the first occupation of any dwelling hereby permitted, details of renewable or low carbon energy generating facilities to be incorporated for that dwelling shall be submitted to and approved in writing by the local planning authority, including a timetable for implementation. The details shall demonstrate that at least 10% of the predicted energy requirements of the development will be met using renewable/low carbon energy generating facilities. Thereafter, the development shall be implemented in accordance with the approved details and timescale.

17) Prior to the first occupation of any dwelling hereby permitted, details of water efficiency measures, including a timetable for implementation shall be submitted to and approved in writing by the local planning authority. Thereafter, the development shall be implemented in accordance with the approved details and timescale.