



Appeal Decision

Site visit made on 4 February 2025

by K Townend BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 February 2025

Appeal Ref: APP/J1860/W/24/3351310

Land to the rear of Homestead, Halfkey Road, Malvern, Worcestershire WR14 1UL

- 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 G Chatterton against the decision of Malvern Hills District Council.
 - The application Ref is M/24/00153/PIP.
 - The development proposed is Permission in Principle for the erection of up to 9 no. dwellings.
-

Decision

1. The appeal is allowed, and Permission in Principle is granted for the erection of up to 9 no. dwellings at Homestead, Halfkey Road, Malvern WR14 1UL in accordance with the terms of the application, Ref M/24/00153/PIP.

Preliminary Matters

2. The Government published a revised National Planning Policy Framework (the Framework) on 12 December 2024 with a further minor revision on 7 February 2025. Those parts of the Framework most relevant to this appeal have not been substantially amended. As a result, I have not sought submissions on the revised Framework, and I am satisfied that no party's interests have been prejudiced by taking this approach.
3. Both main parties have referred to the South Worcestershire Development Plan Review (SWDP Review). The Council has advised that the plan was submitted to the Planning Inspectorate for examination in September 2023 and therefore the SWDP Review, and the policies therein, are a material consideration in the determination of planning applications. However, I cannot be certain if any policies are to be modified or when it is likely to be adopted. I, therefore, have considered the appeal against the adopted development plan policies.
4. The proposal is for permission in principle. 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 two 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 two stages.
5. 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 determined the appeal accordingly.

6. An applicant can apply for permission in principle for a range of dwellings by expressing a minimum and maximum net number of dwellings as part of the application. In this instance, permission in principle has been sought for up to nine dwellings.

Main Issue

7. 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 particular regard to the development strategy for the area, access to services and facilities, and the character of the area.

Reasons

Development strategy

8. A decision on whether to grant permission in principle must be made in accordance with the relevant policies in the development plan unless material considerations indicate otherwise. The site lies outside of, but adjacent to, the defined development boundary for Malvern, as set out in the South Worcestershire Development Plan, adopted 2016 (SWDP). The site is, therefore, considered to be within the countryside for planning purposes.
9. Policy SWDP 2 of the SWDP sets out the development strategy and seeks to ensure the delivery of sufficient houses; to safeguard and, wherever possible, enhance the open countryside; and to focus development on the urban areas. Part C of the policy seeks to strictly control new development in the countryside. Paragraph 4 of the reasoned justification to Policy SWDP 2 advises that the high quality of the open countryside is an important attribute of the area.
10. Malvern is classed as a Main Town and has a wide range of services and facilities to meet residents' day to day needs. The services in Malvern are accessible from the site and, notwithstanding the concerns of interested parties, are within reasonable walking distance. In that regard the appeal before me is closer to services than the appeal at Lower Broadheath¹. Nevertheless, as the development would be located beyond the settlement boundary of Malvern the proposal would not fall within any of the limited forms of development set out in Policy SWDP 2. The location and land use of the proposal would, therefore, be contrary to this policy.
11. The appellant has drawn my attention to Policy SWDPR 03 A of the SWDP Review. Although the support for windfall developments may provide a less restrictive approach to development outside settlement boundaries, as noted above I cannot be certain if the wording of this policy would be modified or when the SWDP Review is likely to be adopted. Consequently, I have assessed the proposal against the SWDP rather than the Review.
12. As the development would be located beyond the settlement boundary of Malvern it would be contrary to Policies SWDP 1 and SWDP 2 of the SWDP. For that reason, I find that the site is not a suitable location for residential development and the proposal is not a suitable land use, having regard to the development strategy and the access to services and facilities.

¹ APP/J1860/W/23/3332645

13. For the same reasons, the proposal would fail to comply with Policies MSD1 and MH3 of the Malvern Town Neighbourhood Plan 2015-2030 (the MTNP). Which, taken together, seek to promote sustainable development in line with the Framework and resist development in the countryside except for in a limited number of circumstances.

Character and appearance

14. The appeal site comprises a parcel of agricultural land behind the houses on Halfkey Road. A public right of way (PROW) runs along the outside edge of the site and a Christmas tree farm lies beyond the PROW. The existing housing forms one edge of the site and Leigh Sinton Road forms a second edge. The site is part of the open countryside beyond the built development of Malvern and can clearly be appreciated as such from the PROW. It is also visible from the neighbouring houses and from near the houses in Malvern in glimpses between the existing buildings.
15. The appeal site forms part of the Significant Gap between Malvern and Leigh Sinton, lies within the Landscape Type Principle Timbered Farmlands, as defined in the Worcestershire County Landscape Character Assessment (LCA), and within the setting of the Malvern Hills National Landscape.
16. Part D of Policy SWDP 2 of the SWDP states that development proposals should ensure the retention of the open character of the Significant Gaps. Paragraph 8 of the supporting text explains that the purpose of maintaining the gaps, which either serve as a buffer or a visual break between rural settlements and adjacent urban areas, or protect the character and setting of settlements, is to provide additional protection to open land that may be subject to development pressures. The designation helps to maintain a clear separation between smaller settlements and urban areas in order to retain their individual identity.
17. Paragraph 8 also advises of some forms of development which might be acceptable in the significant gaps. The proposal would not fall within any of the developments described. However, I have had regard to the wording of the Policy and supporting text which is written as 'may include' and is, therefore, not wholly prohibitive of developments that are not included in the list. The principal function of the Significant Gap is to keep land open in order to prevent neighbouring settlements from coalescing and to provide an appropriate setting for settlements. As housing development within the Significant Gap, the proposal would conflict with Part D of Policy SWDP 2.
18. The proposal, being on the edge of Malvern, would also conflict with the guidance set out in the Significant Gap Appraisal² which recommends retention of the whole of the gap, with the possible exception of a few parcels of land on the edge of Leigh Sinton.
19. However, as a development of up to nine houses, immediately adjoining the existing housing in Malvern, the appeal proposal would only result in the development of a small parcel of land on the edge of the Significant Gap. The gap between Malvern and Leigh Sinton is considerable, as is shown in the Significant Gap Appraisal, and a substantial area would be retained between the urban edge of Malvern and the smaller settlement of Leigh Sinton.

² South Worcestershire Development Plan Review (SWDPR) Significant Gaps Appraisal 2022

20. The appeal proposal would be a small-scale change, when compared to the size of Malvern and the size of the gap and would, therefore, accord with part of the role of the gap, as defined in the SWDP Glossary. Furthermore, the proposal would not affect the individual identity of either Malvern or Leigh Sinton, would not result in the settlements coalescing and would continue to secure open land close to where people live. The Leigh Sinton Farms³ appeal is, therefore, material to my decision in this regard.
21. Bearing in mind the overall purpose of the Significant Gap, and the distance that would remain between the settlements, I find that the development would not be significantly harmful to, nor substantially undermine the function and purpose, of the Significant Gap in this instance, even though the appeal site lies on the edge of Malvern rather than on the edge of Leigh Sinton.
22. The Landscape Type Advice Sheet for the Principle Timbered Farmlands (PTF) describes it as small scale wooded, agricultural landscape of irregular shaped woodlands, winding lanes, and frequent wayside dwellings. The PTF includes hedgerow trees, hedgerow boundaries and fields as notable features. The appeal site currently contributes positively to the character of the PTF landscape, and the development of the site would result in the loss of the open field.
23. Given the existing roadside landscaping the appeal site is not prominent in views from the road when approaching from Leigh Sinton towards Malvern. The views of the site from the road out of Malvern would be of new houses behind the existing housing. Views from the PROW would be significantly different as the development would be built on what is currently an open field. The PROW would, therefore, be enclosed along one side by the housing. Nevertheless, the proposal would be read with the backdrop of existing built development and views out across the Significant Gap, towards Leigh Sinton, would still be available from the PROW. Moreover, the layout and landscaping of the site would be a matter for the Technical Details Stage, and it may be possible to design a layout and landscaping that would minimise the visual effect on the PROW. The harm to the PTF would, therefore, be localised and limited.
24. The site lies outside the Malvern Hills National Landscape (formerly Area of Outstanding National Beauty). However, as part of the rural area around Malvern in which the hills can be viewed the appeal site forms part of the setting in which the National Landscape is appreciated. Section 245 of the Levelling Up and Regeneration Act 2023 amended the duty in the Countryside and Rights of Way Act 2000 in relation to National Landscapes to require relevant authorities, in exercising or performing any functions in relation to, or so as to affect, land in a National Landscape to seek to further the purpose of conserving and enhancing the natural beauty of the National Landscape.
25. The site is also part of the Land Parcel M03 identified in the Malvern Hills AONB Environs Final Report (May 2019) which notes that the area is a well-defined, small scale pastoral landscape with thick, mixed species hedges and mature hedgerow trees. That report advises that M03 has a high landscape and visual susceptibility/sensitivity, and that the sensitivity would make housing development intrusive and inappropriate.

³ APP/J1860/W/21/3289643

26. The Malvern Hills are visible from the PROW around the appeal site and from Halfkey Road and Leigh Sinton Road and development on the appeal site would be viewed within the attractive vistas of the hills. Nevertheless, the views are already seen in the context of the urban edge of Malvern and a Landscape and Visual Appraisal could be submitted with the Technical Details Consent application, as requested by the Malvern Hills National Landscape Team, to ensure that the effect on the setting of the National Landscape is minimised. I walked part of North Hill while in Malvern and saw that the fields between Malvern and Leigh Sinton were visible from the hill. While that may be the case, views of the site would be read in the context of the existing built development at the edge of Malvern. The appeal development would not be easily distinguished from the edge of the settlement as viewed from North Hill and the gap between Malvern and Leigh Sinton would continue to be clear and identifiable.
27. The proposal would result in loss of openness of the Significant Gap by the very reason that the current agricultural field would be built upon. It would result in an appreciable erosion of the sites relatively open character and appearance. The proposal would also result in encroachment into the countryside and the urbanisation of a currently undeveloped agricultural field. The introduction of development on the appeal site would extend Malvern out into an area defined as open countryside for planning purposes. It would, therefore, not safeguard the countryside from development.
28. Although the development of the site would result in harm to the openness of the Significant Gap, reduce the Significant Gap, and harm views from the PROW, for the above reasons, I find that the harm would be limited and give limited weight to this matter. Nevertheless, there would be harm, which would be permanent.
29. For the above reasons, albeit that the harm to the Significant Gap, the PTF, and the Malvern Hills National Landscape is limited, the location and land use would, in principle, be unacceptable, having regard to the harm to the character and appearance of the area. The development would, therefore, be contrary to Policies SWDP 2, SWDP 21, SWDP 23 and SWDP 25 of the SWDP which, taken together, seek to safeguard and enhance the open countryside and strictly control development, seek to ensure that development enhances the overall quality of the built environment, integrates effectively with its surroundings, including the landscape setting, takes into account the latest Landscape Character Assessment and its guidelines, and restricts development that would have a detrimental impact on the natural beauty of the National Landscape.
30. For the same reasons, the proposal would fail to comply with Policies MD1 and MD2 of the MTNP and Policies BDP1 and BDP4 of the Malvern Hills Area of Outstanding Natural Beauty Management Plan 2019-2024. Collectively these policies seek to ensure that developments respond to and reflect local character as set out in the Local Character Areas, integrates into and contributes to the landscape character, and for development proposals that may affect land in the setting of the National Landscape to protect and/or enhance key views and landscape character.

Other Matters

31. Several local residents have objected to the proposal. While I have had regard to these comments, I have already set out that a permission in principle is not a

planning permission in itself and my consideration of the case is limited to very specific matters. As such, issues such as detailed access arrangements, highway capacity, drainage capacity, and the effect on biodiversity among other things, must be considered at the subsequent Technical Details Consent stage.

32. There is no dispute between the two main parties that the Council cannot demonstrate a five-year supply of deliverable housing land. Based on the appellant's Final Comments the Council can only show 3.83 years housing land supply. Although this is a higher figure than provided in the earlier documents it remains a shortfall below the five-year housing land supply requirement. Paragraph 11d) of the Framework therefore applies.
33. Policies SWDP 1 and SWDP 2 of the SWDP are the most relevant in considering the proposal. Policy SWDP 2 takes a more restrictive approach to development in the countryside than the Framework. However, it is broadly consistent with the Framework as a whole in seeking to enhance the natural and local environment and recognising the intrinsic character and beauty of the countryside. As such I have given the conflict with this policy significant weight in this appeal.
34. The proposal would also result in some harm to the character of the area, the Significant Gap, the PTF, and the setting of the National Landscape. However, it would be possible to assess the landscape and visual effects at the Technical Details stage. I also have no compelling evidence that a scheme could not be designed to reflect other developments on this edge of the settlement and respect the transition between built development and the open countryside.
35. The development of the appeal site would, therefore, be materially different to the appeal on the adjacent site⁴ where the prominent location and the existing sparse development would have been adversely affected by the intensive development proposed. The visual harm of the appeal before me would be localised and reduced by it being a continuation of other built development. Consequently, the harm to the character and appearance of the area would be limited.
36. The construction of up to nine dwellings would contribute towards the district's housing supply and would accord with the Framework which seeks to significantly boost the supply of housing. Although the site is outside the settlement boundary, it is in a location that is within a reasonable distance of a range of day-to-day services. Future occupants would be able to reach these on foot, providing them with transport choice and not an over-reliance on the car.
37. Moreover, the proposal would also provide economic benefits both during and post construction. I afford significant weight to the provision of these new houses. Although, as only up to nine dwellings are proposed the benefit is limited when weighing the merits of the scheme. I therefore afford significant weight to the limited benefit the development would make to addressing the housing shortfall.
38. Whilst there would be conflict with the SWDP in respect of development within the Significant Gap and outside of the settlement boundary set out in Policy SWDP 2, for the above reasons, I find that the harm to the character and appearance of the area would be limited.

⁴ APP/J1860/W20/3263712

39. The harm from the conflict with the development plan and the harm to the character of the area would not significantly and demonstrably outweigh the benefits that would arise from the development, when assessed against the policies in the Framework, taken as a whole. Accordingly, there are material considerations, which indicate a decision should be taken other than in accordance with the development plan.

Conditions

40. The PPG makes it clear that it is not possible for conditions to be attached to a grant of permission in principle, whose terms may only include the site location, type, and amount of development. Therefore, I have not imposed any conditions.

Conclusion

41. The proposed development conflicts with the development plan when considered as a whole. However, there are material considerations, notably the provisions of the Framework, which indicate that the decision should be taken other than in accordance with the development plan. The appeal is therefore allowed.

K Townsend

INSPECTOR