



Appeal Decision

Site visit made on 11 March 2025

by C Billings BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 March 2025

Appeal Ref: APP/J1860/W/24/3355622

Land at The Oaks, Bell Lane, Lower Broadheath, Worcester, Worcestershire WR2 6RR

- 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 Candy of Ascan Ltd against the decision of Malvern Hills District Council.
 - The application Ref is M/24/01078/PIP.
 - The development proposed is permission in principle for the construction of up to 3 single-storey dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The site address in the banner has been taken from the application form.
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 (permission in principle stage) establishes whether a site is suitable in-principle and the second stage ('technical details consent') 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, as set out in the PPG. 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.
5. A revised National Planning Policy Framework (the Framework) was published in December 2024 and so is a material consideration. The main parties had opportunity to comment on the updated Framework and, I have had regard to any comments received.
6. An indicative site plan has been provided showing where 3 no. bungalows could be located within the site. I have dealt with this as indicative only.

Background and Main Issues

7. The Council refused permission in principle on the basis the development would harm the open landscape of the Significant Gap between Broadheath and Worcester and would poorly relate to the pattern of development of Broadheath, harmful to the character and appearance of the surrounding area.

8. Having regard to the above, the main issues are 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 character and appearance of the surrounding area.

Reasons

9. The appeal site lies outside the settlement boundary of Lower Broadheath and is within the open countryside. Part C of Policy SWDP2 of the South Worcestershire Development Plan (February 2016) (SWDP) strictly controls development in the open countryside, only allowing certain development. The proposal would not fall within any of the allowed development categories.
10. Although the appeal site is within the open countryside, it is not in an isolated location. There are existing dwellings which abut the site on two sides and it is close to the settlement boundary of a category 1 village, with access to facilities and services. Even though services, such as the primary school, is some walking distance away from the appeal site, the site is close to the settlement with other services and facilities within reasonable walking and cycling distance and bus stops nearby. Therefore, the appeal site is not in an unsustainable location.
11. Notwithstanding the above, the appeal site falls within the Significant Gap, where Part D of Policy SWDP2 requires development proposals to ensure the retention of the open character of such. While development is not precluded in Significant Gaps, the reasoned justification for the policy sets out that, the purpose of the gaps is either to serve as a buffer or visual break between rural settlements and adjacent urban areas or protect the character and setting of settlements, providing protection to open land that may be subject to development pressure. It is therefore necessary to consider the principle of development within the Significant Gap having regard to the appeal site context.
12. The majority of the appeal site is part of a larger area of paddock land. The site together with the wider parcel of land between Sling Lane and the access track leading to Oaks Barn has an open character and provides a welcome break between and adjacent to the surrounding built form of the village, visible from neighbouring dwellings and surrounding public footpaths. Therefore, even though the site does not have any other landscape or historic designations and as asserted by the appellant, the land is surrounded on 3 sides by development, the appeal site is within an area of land which makes a positive contribution to the character and setting of the settlement. Consequently, the proposed development, in extending built form into this open area of the countryside within the Significant Gap, would erode the distinctive development edge, harmful to the character and setting of the village.
13. The appeal site lies behind ribbon development, fronting onto Sling Lane and so it would not extend development further toward Worcester than the existing dwellings along this adjacent lane. However, these existing road frontage dwellings have a different site context to the appeal site and their rear boundaries form a distinctive edge to the built form of the village, outside the Significant Gap. Also, even though the proposed development would be seen against the backdrop of other existing development, by adding built form, it would discernibly reduce and so, harm the open character of the appeal site, contrary to the purposes of the Significant Gap in this instance.

14. In regard to other development permitted in parts of the Significant Gap, from my site observations and the evidence provided, the 4 dwellings at The Oaks, appeal ref. APP/J1860/W/16/3164684, is a more enclosed development which infills the crescent of existing built form. Whereas even though the appeal site immediately abuts existing dwellings on two sides, it steps further back from the development form fronting Bell Lane and would encroach further into the particularly open part of the Significant Gap. Furthermore, the proposal would sub-divide an open paddock area where there are no natural field boundaries, which would appear unduly anomalous. Therefore, comparable to The Oaks development, the proposal would not be appropriate infill, nor would it represent a natural extension of this adjacent housing development.
15. At Omega, ref APP/J1860/W/20/3262274, the Inspector's decision sets out that the development sought outline permission for a single dwelling, located within the side garden of an existing dwelling, which contained shrub, tree planting and domestic paraphernalia, rather than open paddock area. Therefore, the proposal and site context differ from that of the appeal site and proposal.
16. Even if the appeal site access could be via the existing roadways and that the proposed dwellings would be bungalows with a low density, comparably lower than the density of other dwellings nearby, such considerations would not overcome the harm caused by the incursion of built form into the Significant Gap and consequent impact this would have on the character and setting of the settlement, in this instance.
17. The appeal site would be large enough to accommodate up to 3 dwellings, while having a comparable density and form of development to that of nearby dwellings. While there are significant preserved trees which overhang the appeal site, which would cause shading to part of it, dependant on the siting and design of the dwelling/s, it would be possible to accommodate between 1 and 3 dwellings within the site. Such design details and considerations would be appropriately considered at the technical details consent stage. Therefore, in regard to the proposed amount of development taken in isolation, the appeal site in principle would be of suitable size for up to 3 dwellings.
18. In view of the above, the appeal site would not be suitable in terms of its location and the land use of the proposed development, in conflict with Policies SWDP2, SWDP21 and SWDP25 of the SWDP, which amongst other matters, require development to integrate and be appropriate to the landscape character and setting. This includes that there would be conflict with part D of SWDP, which requires development proposals to ensure the retention of the open character of the Significant Gap.

Other Matters

19. The proposal would provide up to 3 dwellings on land that, while in the open countryside, is not in an isolated or unsustainable location, due to its proximity to the nearby category 1 settlement and its services and facilities therein. Also, the appeal site is in an area where there is a demonstrated housing shortfall and there would be other social and economic benefits from the construction and occupation of the dwellings. Although, the benefits from construction would be short term and the benefits of boosting housing supply and from the occupation of the dwellings

would not be significant, given the small scale of the development. Therefore, overall, I give moderate weight to these considerations.

Planning Balance

20. The proposal would conflict with Policies SWDP2, SWDP21 and SWDP25 of the SWDP in terms of its location and land use. I give significant weight to the harm that would be caused to the character and appearance of the settlement by encroaching built form into the Significant Gap in this instance. In view of such conflict and as there are no policies which favour this kind of development in this location, there would be conflict with the development plan as a whole.
21. Due to the lack of 5 year housing land supply, paragraph 11d) and footnote 8 of the Framework is engaged, which establishes the policies which are most important for determining the application are out-of-date. Consequently, the presumption of sustainable development applies, unless the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development, or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against policies in the Framework taken as a whole. The appeal site is not within a protected or designated site or habitat and is in Flood Zone 1, in an area at low risk of surface water flooding.
22. The Council's latest housing land supply position is demonstrated to be 2.06 years. This is well below the Government's expectations. Therefore, the provision of up to 3 new dwellings would make a positive contribution towards meeting the Council's significant housing supply shortfall. However, despite the shortfall in housing land supply and the objective of significantly boosting the supply of homes within the Framework, given the small scale of the proposed development, I give moderate weight to the benefits.
23. Therefore, the adverse impacts of the proposal in regard to the development strategy for the district and the harm caused to the character and appearance of the surrounding area, by extending built form into the Significant Gap, would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. As a result, the presumption in favour of sustainable development does not apply.

Conclusion

24. The proposal would conflict with the development plan as a whole and there are no other considerations, including the provisions of the Framework, which outweigh this finding.
25. Accordingly, the appeal should not succeed.

C Billings

INSPECTOR