



Appeal Decision

Site visit made on 4 March 2025

by **C Billings BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 25 March 2025

Appeal Ref: APP/H1840/W/24/3351872

The Wain House, Copcut Lane, Salwarpe, Worcestershire WR9 0AH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
- The appeal is made by Mr Qadeer against the decision of Wychavon District Council.
- The application Ref is W/23/01184/OUT .
- The development proposed is 1 dwelling.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. A completed S106 agreement has been received during the appeal process. As this would secure an affordable housing contribution, the Council has confirmed that it withdraws the reason for refusal in relation to affordable housing.
3. The application has been made in outline, with all matters reserved for future consideration. A submitted site block plan indicates the potential location of a 4-bed dwelling and that the dwelling would have a new driveway access from Chawson Lane. These details have been provided for indicative purposes only and therefore, I have treated them as such in reaching my decision.
4. A revised version of the National Planning Policy Framework (the Framework) was published in December 2024. The main parties were given opportunity to comment on the updated Framework and I have had regard to any comments received.

Main Issues

5. The main issues are:
 - whether the proposed development would be a suitable location having regard to local housing development strategy and access to services and facilities;
 - the effect of the proposal on biodiversity; and,
 - highway safety.

Reasons

Location

6. The appeal site is in the open countryside, outside any defined settlement boundary. Even though an affordable housing contribution would be secured as part of the proposal and even if, the proposed development would not result in an isolated home for the purposes of the Framework, the proposal would fail to comply with Policy SWDP2 of the South Worcestershire Development Plan (February 2016) (SWDP), as no substantive evidence has been provided to show it would

comprise one of the limited permitted forms of development in the open countryside, including, but not limited to a rural exception site in accordance with Policy SWDP16 of the SWDP. While an off-site affordable housing contribution would be secured as part of the proposal, the new dwelling would not be an affordable dwelling and, it has not been demonstrated there is a proven and yet unmet local need, having regard to the criteria in part A of Policy SWDP16.

7. While there is an allocated urban extension site further along and to the north of Copcut Lane, which includes a neighbourhood centre that has shops and community facilities, the appeal site does not lie within this urban extension site. There is intervening agricultural land and a railway line between the appeal site in Chawson Lane and the urban extension site. The nearest pedestrian access to the urban extension development from the appeal site would be via Copcut Lane along a portion of the lane which has no footways. Vehicular access to the urban extension is from the A38/Roman Way, rather than direct from Copcut Lane. Also, the appeal site is not adjacent to the development boundary of Droitwich Spa, as there is intervening agricultural land between the site and the built-up area of this nearby town.
8. From the evidence and my site observations, there are no direct designated cycle or bus routes leading from the appeal site to the urban extension site and its neighbourhood centre, nor to Droitwich Spa. Therefore, cyclists and pedestrians would need to share the narrow, unlit carriageways of the country lanes with vehicles to access the services and facilities within these built-up areas. Salwarpe Village Hall is within a short walk from the appeal site and various clubs and facilities are provided at the hall. However, this would not provide all the service needs of the occupiers of the proposed dwelling, including shopping and schools.
9. While the appeal site is not that far from a nearby town and the neighbourhood centre within the urban extension site, the walking routes thereto would not be that safe and attractive, particularly in inclement weather and when dark. Therefore, the occupiers of the proposed dwelling would be reliant on private vehicles to access most services and facilities. As a result, the proposed development would not be in a sustainable location, which would minimise demand for travel, nor offer genuinely sustainable travel choices.
10. Having regard to the above, the proposed development would not be in a suitable location having regard to the local housing development strategy and access to services and facilities. Accordingly, there would be conflict with Policies SWDP1, SWDP2 and SWDP4 of the SWDP, which amongst other matters, restrict development in the open countryside, in unsustainable locations, requiring development to be located where it would minimise the demand for travel, offering genuinely sustainable travel choices.

Biodiversity

11. There are existing large trees within and adjacent to the appeal site, along the road frontage, in the garden of the neighbouring residential property and to the side of the site, along the driveway access to The Wain House. The trees are generally substantial in size and their crown spread overhang the appeal site. There is also a significant frontage hedgerow along Chawson Lane.
12. Notwithstanding the indicative nature of the proposed layout plan, the Tree Survey shows that some existing trees would likely require removal or would be impacted

by the proposed dwelling, as it would be within the root protection zone of the trees. Also, while means of access is a reserved matter, the indicative layout shows that the proposed dwelling would have a separate access onto Chawson Lane, and the existing driveway leading to The Wain House is not within the appeal site.

Therefore, the new access would likely require removal of a tree and hedgerow toward the site frontage. The Tree Survey indicates the tree is of poor quality and unsuitable for retention, although that the hedgerow is of moderate to high quality. The hedgerow furthermore contributes to the attractive rural nature of the road frontage and wider country lane, which continues down to the junction of Copcut Lane and Chawson Lane. The frontage hedgerow and trees would provide some biodiversity value, which needs to be appropriately considered.

13. The visibility splay requirements of a new vehicular access onto Chawson Lane, which has a 60mph speed limit, would likely require removal of much of the existing vegetation along the site frontage. Also, despite the findings of the Tree Survey that shading is unlikely, due to the proximity of a dwelling within the site to surrounding large trees, it is likely the trees would cause some shading, yet no substantive information has been provided regarding such. The likely shading impact could lead to future conflict between the retained trees and occupiers of the new dwelling, leading to pressure for further tree removal.
14. The Preliminary Ecological Appraisal (PEA) sets out that the on site features of value are the trees, which should be retained and protected within the proposed development. However, based on the evidence provided it is not clear that the existing trees of value would be able to be retained if a dwelling were erected on the appeal site.
15. In addition, while the PEA was carried out by an ecology consultant, contrary to the findings therein, the Council sets out that there is a known population of Great Crested Newts within the grounds of a nearby property and also, there are records of reptiles nearby. Although, the PEA does not appropriately acknowledge and address any potential impact on such species. With such doubt, I cannot unequivocally conclude that there would be no harm caused to biodiversity interests by the proposed development.
16. Paragraph 99 of Circular 06/05: Biodiversity and Geological Conservation sets out that the presence or otherwise of protected species and the extent that they may be affected by the proposed development, needs to be established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. Therefore, matters related to the potential impact on protected species cannot be left to be considered at the reserved matters stage and so, a condition would not overcome such concerns.
17. Therefore, notwithstanding that the layout of the proposed dwelling and position of the access is not fixed as part of the outline proposal, it has not been appropriately demonstrated that the proposed new dwelling and its access could be provided, without causing removal or harm to existing trees and hedges of value, or that there would be no undue impact on protected species.
18. In view of the above, the proposal would have a harmful effect on biodiversity, in conflict with Policy SWDP22 of the SWDP, which, amongst other matters, sets out that development which would compromise nationally protected species or habitats will not be permitted.

Highway safety

19. Outline permission is sought, with all matters, including means of access reserved for future consideration and, the means of access is not clearly defined on the indicative plans. Although, the appeal site¹ connects to the public highway along Chawson Lane and does not include the existing access serving The Wain House.
20. A new access along the appeal site frontage would be in close proximity to the existing access serving The Wain House. Also, due to the speed limit along the lane a certain length of visibility would be required to meet the relevant standards. Based on the evidence provided, it is not demonstrated that appropriate visibility splays could be provided on land within the appellant's ownership or on highway land, so that a safe means of access could be achieved to serve the new dwelling.
21. Even if the proposed dwelling were to access the site via the existing access to The Wain House, this would intensify the use of it. To accommodate such increased use, this would likely require improved visibility splays in any case. Based on the evidence and my site observations, it is unlikely and furthermore, not demonstrated that improved visibility could be achieved on land within the appellant's ownership or on highway land. Therefore, a condition requiring access to the new dwelling via the existing vehicular access would not ensure a safe means of access for the proposed development.
22. In view of the above, the proposal would cause harm to highway safety, in conflict with Policy SWDP21 of the SWDP, which amongst other matters, requires all applications to demonstrate that vehicular traffic from the development should be able to access the highway safely.

Other Matters

23. The appeal site lies outside and is not immediately adjacent to the Droitwich Canal Conservation Area (CA). The special interest of the CA is derived from the historical use of the canal and the uses, buildings and features along it. Also, there is a grade II listed building nearby at Tithe Barn, which is located within a collection of other buildings accessed from Copcut Lane. The significance of the listed building is derived from its original agricultural use and its traditional materials and features.
24. The land where the appeal site is situated is within the grounds of The Wain House, It has no direct historical or aesthetic relationship between the canal nor Tithe Barn as a former agricultural building. The proposal would not affect the integrity of the features and materials of the listed building. Furthermore, due to the distance separation, intervening land and vegetation there would be no intervisibility between these nearby heritage assets and the appeal proposal. Therefore, having regard to the evidence and the scale and location of the proposed development, it would not cause harm to the setting nor significance of the heritage assets.
25. The proposal would provide an additional house in an area where there is a demonstrated housing shortfall and, it would provide other benefits with regard to the construction and occupation of the new dwelling. Also, as secured under an appropriate S106 legal agreement, the proposed development would contribute toward off-site affordable housing, aligned with the requirements of Policy SWDP15

¹ Area outlined in red on the submitted plans.

of the SWDP. Albeit in respect of one additional dwelling, such benefits would not be significant and therefore, I only give limited weight to such considerations.

26. The actions of the Council during the application and appeal process and that third party correspondence may have included factual errors, are neutral factors in terms of the merits of the appeal proposal. Therefore, such considerations do not weigh in favour of the proposal.

Planning Balance

27. The proposed development would have a harmful impact in regard to its location, biodiversity, and highway safety, in conflict with policies contained within the SWDP. The harm caused by such matters would be significant. Therefore, the proposal conflicts with the development plan as a whole.
28. The Council cannot demonstrate a 5 year housing land supply. In such circumstances paragraph 11d) 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.
29. The Council has set out that its current housing land supply position is around 1.1 years. This is significantly below the Government's expectations and therefore, the provision of an additional dwelling would make a positive contribution towards meeting the Council's shortfall. Although, given the small scale nature of the proposed development, the benefits would be limited.
30. Consequently, the adverse impacts of the proposed development in relation to its unsustainable location within the open countryside, that it would not ensure the protection of nor minimise the impacts on biodiversity and, the unacceptable impact on highway safety, 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

31. 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.
32. Accordingly, the appeal should not succeed.

C Billings

INSPECTOR