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## Appeal Decision

Hearing held on 29 April 2025

Site visit made on 29 April 2025

**by V Simpson BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 22 May 2025

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**Appeal Ref: APP/J1860/W/24/3356626**

**Land at OS 6929 7146, C2096 Mamble, Worcestershire DY14 9JG**

- 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 Rob Finney against the decision of Malvern Hills District Council.
  - The application Ref is M/24/00209/FUL.
  - The proposed development is the erection of new dwelling with detached store to rear.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The description of development within the banner has been taken from the decision notice and the appeal form. At the hearing, the main parties agreed that this description reflects the development subject of the application and this appeal.
3. Since the closure of the hearing, a copy of an executed planning agreement has been provided. I return to this later.
4. On the application form it was indicated that the development would be a form of self-build and custom build housing. However, during the hearing, the appellant confirmed that this would not be the case, and I proceed accordingly.
5. Since the determination of the application, an amended proposed shed/workshop elevations plan has been provided. The amendments, which are of a minor nature, have been made to ensure that the proposed elevations of the shed/workshop correlate with each other. They do not substantially alter the scheme, and the Council would not be prejudiced by my decision to accept this amended plan, as they had the opportunity to comment on it during the hearing.

### Main Issues

6. The main issues are:
  - whether the site is a suitable location for the proposed development with particular regard to the local development strategy for housing;
  - the effect of the development on the character and appearance of the area;
  - whether the development would make suitable provision for affordable housing; and,
  - if conflict with the development plan would arise, whether any such conflict would be outweighed by material considerations.

## Reasons

### *Development strategy*

7. The appeal site is located outside and removed from any settlement defined within the development plan. As such, for planning policy purposes, it is within the open countryside.
8. Together, policies SWDP 2, 4, and 19 of the South Worcestershire Development Plan<sup>1</sup> (the SWDP) form part of an overall strategy for development within the district. Amongst other things, they seek to direct most new development to those locations where the demand for travel would be minimised, and which have the best access by means other than private car to the greatest range of services and facilities. Moreover, in open countryside locations, Policy SWDP 2 states that development will be strictly controlled and limited to certain types, which include dwellings for rural workers.
9. Policy SWDP 19 relates to dwellings for rural workers. Amongst other things, this policy indicates that proposals for permanent rural enterprise-related dwellings will be permitted where all the criteria at A. i.– v. of that policy would be complied with. This includes a requirement to demonstrate that both the functional and economic tests – as set out within Annex G of the SWDP, would be met.
10. The appeal site fills a modest gap between 2 dwellings - Old Colliery Bungalow and Glennic), and it is close to a static caravan holiday park (the holiday park) and a caravan sales, service and repair yard (the caravan yard). As such the appeal scheme would not result in an isolated home in the countryside. That being the case, the provisions of paragraph 84 of the National Planning Policy Framework (the Framework) are not determinative in this appeal.

### *Need for rural worker*

11. The appellant has and continues to reside with his parents - Mr. S. and Mrs. A. Finney, in Old Colliery Bungalow which is adjacent to the caravan yard. Both Old Colliery Bungalow and Glennic, are owned by Mr. S. and Mrs. A. Finney.
12. There is no dispute that the appellant works full-time in association with the management and operation of both the caravan yard and the holiday park. Moreover, I was verbally advised that these are run as a single business (the enterprise) by the appellant and Mr. S. and Mrs. A. Finney, but that due to their age and ill-health, Mr. S. and Mrs. A. Finney have stepped back from the day-to-day running of the enterprise.
13. Due to the proximity of Old Colliery Bungalow to the enterprise, at most times the appellant has been available to quickly respond to both customer requests and incidents associated with the operation of the caravan yard and the holiday park. I heard that these incidents have included fairly frequent tripped electricity supplies to either individual or groups of caravans, as well as burst pipes and other damage to caravans caused by adverse weather conditions. I appreciate that the ability to respond quickly to these incidents and to other customer requests contributes in no small way to minimising damage, and to ensuring ongoing customer satisfaction - both of which contribute to the ongoing success of the enterprise.

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<sup>1</sup> Worcester City Council, Malvern Hills District Council and Wychavon District Council – South Worcestershire Development Plan – Adopted February 2016

Nevertheless, significant damage caused by adverse weather conditions has been rare, and the absence of a worker on or very close to the site for most of the time would not change this. Furthermore, I do not doubt that the financial implications of such damage could be minimised by suitable insurance coverage.

14. Interruptions in power and heat supplies can, in some cases, be harmful to the people and properties affected. It has been put to me that many of the caravan owners/occupiers are older people who may be vulnerable to adverse effects from incidents such as a tripped electricity supply, and/or running out of gas. However, even if this is the case, and such incidents were to occur outside of normal working hours, it does not follow that a short delay in the provision of a fresh gas bottle or the re-establishing an electric supply, while a person either travels to the site from elsewhere in the area or until the next working day, would cause harm to users of the holiday park. Moreover, if any such users are or would be especially vulnerable to such events, it is reasonable to expect that they would take personal responsibility for ensuring that they retain a reserve gas bottle, and battery powered (or equivalent) back-ups for any short-term interruptions in mains powered electricity supply.
15. The appellant verbally advised that historically there has been no criminal activity or damage associated with either the operation of the holiday park or the caravan yard. Moreover, I have no doubt that good surveillance of the road approach to the caravan yard from Old Colliery Bungalow and Glennic helps to deter crime. In addition, for the 11 months a year that the holiday park is open, good surveillance of this area can be secured from the individual caravans within it. For these reasons, the risk of criminal activity of the type and extent that would harm the ongoing success of the business is very low. That being the case, the proposed development, which would be sited between Glennic and Old Colliery Bungalow, is not necessary to prevent levels of crime that would be harmful to the enterprise.
16. Even if the appellant is willing to serve customers and potential customers of the caravan yard at times to suit them, it is not likely that customers would ordinarily expect the yard to be open outside of normal working hours. Nevertheless, I accept that there are instances where there is a demand to view, deliver or return caravans outside of normal working hours. In such cases, it would not be unreasonable to require a time window for this to be agreed, so that the appellant or an alternative employee of the enterprise could arrange to be in attendance.
17. For these reasons, there is no need for a person working for the enterprise to live on or in immediate proximity to it for most of the year.
18. It would be unreasonable to expect those retiring from the enterprise to vacate Old Colliery Bungalow, to make way for a person working on the enterprise to reside there. Nevertheless, and although Glennic has been occupied by the sister of the appellant and her family for many years, during the hearing I was advised that she does not work within or as part of the enterprise. I was further advised that Mr. S. and Mrs. A. Finney would not be willing to make their daughter vacate this property so that it could be made available for occupation by the appellant. However, and even if I had found that the enterprise that Mr. S. and Mrs. A. Finney are co-partners in, requires a worker to live on or close to the enterprise for most of the year, then, based on the evidence before me, there is no compelling reason why this property could not be made available for that purpose.

19. *Access to services and facilities*

20. The small nearby settlement of Mamble contains a limited number of community facilities, which include a public house and a village hall. Future occupiers of the development are therefore likely to need to travel to other settlements to access the wider range of facilities ordinarily required for everyday living.
21. I understand that when required, school bus services drop-off and collect school children at the vehicular access between the appeal site and the adjacent A-road. I also heard that the closest general service bus stops to the site are outside of Mamble village hall, and I understand that these stops are served several times a day (Monday to Saturday) by a bus service between the larger settlements of Kidderminster and Tenbury Wells.
22. Although these general bus stops are within a reasonable walking distance of the appeal site, pedestrian access to them and to the other services and facilities within Mamble, would necessitate walking alongside a stretch of what was observed to be a fairly busy A-road subject to the national speed limit. This section of the road has no pavements or footways alongside it; no street-lighting; and no dedicated cycle lane. As such, and even though the grass verge alongside the road is fairly wide, pedestrian and cycle access to the general bus stops to access services beyond, is unlikely to be favoured or commonly undertaken.
23. That being the case, and even if the appellant does not frequently use a private car, this may not always be the case for him, or other future occupiers of the proposed dwelling. Instead, and for the reasons given, future occupiers are likely to rely heavily on private cars to access those services and facilities required to meet their everyday needs.

*Development strategy conclusion*

24. For the reasons given, the appeal site is not a suitable location for the proposed development with particular regard to the development strategy for housing. As such, and in respect of this main issue, it would conflict with SWDP policies 2, 4, and 19.
25. SWDP policy 21 mainly relates to design. As such and in respect of this main issue, it is unclear how harmful conflict with this policy would arise.

*Character and appearance*

26. The area of the shed/workshop would not be dissimilar to the dwelling it would be ancillary to. However, it would be sited to the rear of the dwelling, and it would have a lower eaves and ridge height than it. Consequently, it would not be prominent from the road to the front of the site. Instead, and from those locations where it could be seen, it would read as a subordinate outbuilding to the dwelling, and, as a structure that would sit harmoniously with a nearby barn, outbuildings, and caravans.
27. For these reasons the development would not cause harm to the character and appearance of the area. Consequently, and in respect of this main issue, it would comply with SWDP policy 21. Amongst other things, this requires development to integrate effectively with its surroundings.

### *Affordable housing*

28. Albeit with exceptions, SWDP policy 15 requires new residential development to provide or contribute towards the provision of affordable housing. As the appeal site is within a designated rural area and only one dwelling is proposed, SWDP policy 15. B. v. and the Council's associated formal position statement<sup>2</sup> require a financial contribution be made towards affordable housing provision. How the amount should be established is also outlined within this policy and the associated position statement.
29. The legally sound planning agreement includes an obligation to make provision for a financial contribution towards affordable housing. Such a contribution and its' amount are compliant with both SWDP policy 15 and the associated formal position statement.
30. The contribution set out within the planning agreement is therefore justified and soundly based upon planning policy requirements. It is also fairly and reasonably related to the development proposed. As such, the agreement passes the statutory tests set out within regulation 122 of The Community Infrastructure Levy (CIL) Regulations 2010 – as amended, as well as the requirements of 58 of the Framework.
31. For the reasons given above, the development would make suitable provision for affordable housing. Consequently, and in respect of this main issue, it would comply with SWDP policy 15.

### *Other matters*

32. Even if land within the appeal site has been previously developed, and apart from that section of the site that would be used to provide vehicular access and parking for the dwelling, the remains of any permanent structure or fixed surface structure have blended into the landscape. Consequently, the site as a whole cannot be regarded to be previously developed land.
33. I have not been provided with a copy or copies of the maintenance contracts between the enterprise and holiday park caravan owner/s. I cannot therefore be certain of what agreements are in place regarding staff attendance. Nevertheless, and even if the existing contracts guarantee a 24-hour a day presence by a staff member, I see no reason why this could not be amended at the time contracts are renewed or updated.

### *Planning balance*

34. The development would make a small contribution to housing land supply within the district and towards the provision of affordable housing. Employment would also be generated from the implementation of the scheme, and there would be economic and social benefits arising from the subsequent occupation of the dwelling. However, given that only one dwelling is proposed, each of these benefits would be small.
35. The development would afford the appellant and his partner more space and a greater degree of privacy, at the same time as enabling the appellant to remain

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<sup>2</sup> Worcester City Council, Wychavon District Council and Malvern Hills District Councils' formal position with respect to affordable housing and tariff style developer contributions following the publication of National Planning Policy Framework 2019 (June 2019)

- close to where he works; grew up; and continues to live. However, I am not satisfied that the implementation of the appeal scheme would be the only way to achieve these benefits. Consequently, very limited weight is accorded to them.
36. That the development would not cause harm to the character and appearance of the area is a neutral consideration.
  37. Nevertheless, the development would conflict with those policies of the development plan which, together, provide a strategy for housing development. As such, and notwithstanding my previous considerations, the scheme would conflict with the development plan as a whole. I attribute great weight to the harm that would be caused by this.
  38. The main parties agreed that the Council has a 2.06-year supply of deliverable housing sites. As such, the Council's housing land supply shortfall is significant.
  39. Because the Council cannot demonstrate a 5-year housing land supply, paragraph 11. d) of the Framework applies. In this case, the application of policies in the Framework that protect areas or assets of importance, as identified at footnote 7, do not provide a strong reason for refusing the development. Therefore, paragraph 11. d) ii. of the Framework is engaged.
  40. The proposal aligns with the parts of the Framework that seek to significantly boost the supply of homes. Furthermore, paragraph 73 of the Framework indicates that small and medium-sized sites can make an important contribution towards meeting the housing requirement of an area. The development would also contribute towards meeting the Framework objective of building a strong competitive economy. However, given the small scale of the scheme, these considerations each attract only limited weight.
  41. Notwithstanding the above, the development would be contrary to other parts of the Framework that seek to promote sustainable transport; ensure that suitable access to the site can be achieved for all users; and to ensure that rural housing be located where it will enhance or maintain the vitality of rural communities. Given the harm that would result from the failure of the development to accord with the local development strategy for housing, the conflict with the Framework in respect of these considerations attracts great weight.
  42. Consequently, I find that the adverse impacts of granting permission for the development would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. The proposal does not therefore benefit from the presumption in favour of sustainable development.

### **Conclusion**

43. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. I therefore conclude that this appeal should be dismissed.

*V Simpson*

INSPECTOR

## **Appearances**

### FOR THE APPELLANT:

Mr Salt	Agent – Creative Planning
Mr Finney	Appellant
Mr Waterhouse	Representative of the appellant
Mr S Finney	Representative of the appellant
Mrs A Finney	Representative of the appellant

### FOR THE COUNCIL:

Mr J Hanley	Planning Officer – Malvern Hills District Council
Ms H Jones	Planning Officer – Malvern Hills District Council