
Appeal Decision

Site visit made on 15 July 2025

by **P Brennan BSc (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 04 August 2025

Appeal Ref: APP/J1860/W/25/3365992

Land adjacent to Mortimer Lodge, Hanley Swan WR8 0DN

- 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 James Forbes against the decision of Malvern Hills District Council.
 - The application Ref is M/25/00438/PIP.
 - The development proposed is described as: Permission in Principle for the proposed erection of up to 2 no. dwellings.
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Decision

1. The appeal is allowed and permission in principle is granted for the proposed erection of a minimum of 1 and a maximum of 2 dwellings on land adjacent to Mortimer Lodge, Hanley Swan WR8 0DN in accordance with the terms of the application, Ref M/25/00438/PIP.

Preliminary Matters

2. 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 (PIP) consent route has two stages: the first establishes whether a site is suitable in-principle and the second (technical details consent - TDC) is when the detailed development proposals are assessed. This appeal relates to the first of these two stages.
3. The scope of the considerations for PIP is limited to location, land use and the amount of development permitted. All other matters are considered as part of a subsequent TDC application if permission in principle is granted. It is undisputed that the site would accord with matters of 'amount of development proposed'. As such, I shall focus on matters of location and land use alone and have determined the appeal accordingly.
4. The National Planning Policy Framework (the Framework) was updated in February 2025. The Council has subsequently confirmed that the effect of the revised Framework means that the Council can presently demonstrate 2.06 years supply of housing land.
5. The appellant refers to policies of the emerging development plan within the evidence. The Council has submitted the South Worcestershire Development Plan Review (SWDPR) for Examination. Whilst hearings have been undertaken, the examination has not concluded, and consultation is required to be undertaken on the main modifications. In the absence of details of the extent of any unresolved objections or conclusions regarding the degree of consistency with the Framework, I afford limited weight to the policies of the emerging local plan.

6. The Hanley Castle Parish Neighbourhood Development Plan (2016-2030) (NDP) was made in June 2025. However, the application was refused against a made version of the NDP from January 2019. As the policy in dispute appears to be unchanged between the NDP versions, I shall refer to the made June 2025 NDP.
7. A site layout plan has been submitted as part of the proposal. This is an indicative plan only and shows only one way that the scheme could be developed. I have therefore attributed limited weight to this plan in my consideration of the appeal.

Main Issue

8. The main issue in this appeal is whether the site is suitable for the proposed development having regard to the relevant development plan policies for the location of housing and its accessibility to services and facilities.

Reasons

9. Policy SWDP2 of the South Worcestershire Development Plan (DP) (February 2016) establishes the Council's approach to the distribution of housing across the area. Hanley Swan is a Category 1 settlement as set out in Table 2 of this policy and Annex D: Hierarchy of Settlements of the DP. Category 1 villages are identified as having at least four key services. The site lies outside the defined development boundary of Hanley Swan in open countryside, where sub-section c) strictly controls development unless allowed by other policies within the DP. However, none of these exceptions would apply in this case. Furthermore, Policy SWDP4 of the DP identifies that new development should be located and designed to reduce the need to travel and encourage the use of sustainable transport alternatives.
10. The NDP allocates land for housing development. NDP Policy MnGr4 supports infill housing where development would infill a gap and where development would not involve the outward extension of the built-up area of the village. Whilst there are no specific policies that restrict residential development in other areas, the allocated sites, and the provision of a limited element of windfall sites, are considered by the NDP to be sufficient to meet the village's housing need for the plan period.
11. NDP Policy MnGr5 relates to the scale of new development and identifies that unallocated DP sites will be supported up to a maximum of 10 dwellings, whilst Policy MnGr6 on Incremental Growth supports the development of approximately 50 dwellings over the Plan period.
12. The appeal site forms part of the side garden to Mortimer Lodge, an existing two-storey dwelling. Mortimer Lodge is situated adjacent to the development boundary within an existing frontage of residential properties which includes a further three dwellings, all outside the development boundary, to the east of the appeal site on the B4209. Farmland is located to the rear of the site. The appeal site has two existing access points and is a predominantly lawn and gravel domestic garden, with mature trees and hedging forming most boundaries. Due to its proximity and context, the appeal site is functionally and visually linked to the village and would not lead to isolated homes in the countryside.
13. The National Design Guide advises that local facilities should be within a 10-minute walk, or an 800m radius to be within a walkable distance. The B4209 has

no streetlights but has a footway on the appeal site's side of the carriageway. The appeal site is less than 800m from the facilities and services that are available in the village centre. Hanley Swan has a public house, village shop and post office, a church, village hall, primary school, and beauty salon. Also, the evidence indicates that bus services through the village provide services to local towns and villages.

14. In view of the above locational features, I find the proposal to be in a village, albeit outside of the boundary, which would allow future occupiers access to a reasonable range of village services within walking or cycling distance, along with bus services to other settlements. However, to meet their day-to day needs, future occupants would likely be generally dependent on use of a private car to access services and facilities in larger settlements. The proposal would therefore make only a modest contribution to reducing the need to travel.
15. On the basis of the above, the proposed development of 2 dwellings would meet the requirements of NDP policies MnGr4 and 5 in relation to location and scale of development proposed.
16. In respect of local housing need, NDP Policy MnGr6 sets a target figure for the delivery of approximately 50 dwellings, over the plan period, to align with the housing supply requirements of the DP. The policy does not place a moratorium on the number of dwellings but seeks that they are brought forward in conjunction with any necessary service infrastructure provision. I am also aware that the housing needs of the village will be subject to evaluation following adoption of the SWDPR. The evidence before me identifies that 53 dwellings have already been built or approved.
17. The NDP has recently been reviewed and there is little as a result of the review or specific evidence before me to illustrate that local services are harmfully overstretched owing to recent housing growth. Furthermore, no evidence is provided to show that there would be a serious impact on infrastructure if these dwellings were to come forward promptly. Whilst the supporting text for NDP Policy MnGr6 does not appear to have been updated, it identifies that the village's retail and public transport services have declined and that the local schools are oversubscribed.
18. School catchments can be complex given parental choice, changing demographics and whether qualifying criteria apply. No evidence is before me regarding catchment criteria or up to date future predictions on pupil numbers. As such, additional housing growth is only one factor in relation to education provision. Consequently, it has not been evidenced that the 2 dwellings proposed would cause notable harm. Furthermore, additional housing would be likely to support struggling retail and public transport services rather than hinder them. Accordingly, I find no conflict with NDP Policy MnGr6 in terms of amount, land use and location.
19. Nevertheless, as the site lies outside the development boundary, for the reasons set out, the location and land use of the proposed development would conflict with Policies SWDP2 and SWDP4 of the DP, whose objectives have been outlined above.
20. The Council's decision notice also cites conflict with Policy SWDP1 of the DP. This is an overarching policy which broadly replicates the presumption in favour of sustainable development in the Framework. This is a matter I shall consider later

in my determination, but in respect of the main issue and given its generic wording, I find no direct conflict with it.

Other Considerations

21. Set against the harm identified, the proposal would deliver an additional 2 housing units toward the area's housing supply.
22. In economic terms, the appeal scheme would provide construction jobs and some local investment during its build out, as well as longer term expenditure of future occupiers in the local economy and through council tax payments.
23. Whilst the development is likely to require the removal of trees on site, additional landscaping would provide biodiversity enhancements. There is limited evidence before me to enable me to quantify the extent of this benefit, as these issues would be addressed at TDC stage.
24. The number of dwellings proposed would ensure an appropriate density, comparable to that of adjacent dwellings. Also, this would allow for a spacious layout, considerate of and sympathetic to its edge of settlement setting.

Planning Balance

25. The Council has a housing land supply position of 2.06 years. Therefore, there is a significant shortfall against the requirement to demonstrate a five-year supply of deliverable housing land, as set out at paragraph 78 of the Framework.
26. In this circumstance, paragraph 11 of the Framework is engaged, whereby planning permission should be granted unless (i) policies in the Framework that protect areas or assets of particular importance provide a strong reason for refusing the development, or (ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, and having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination. There is nothing to suggest 11(d) (i) is relevant to this case, hence the balance in 11(d) (ii) applies.
27. Paragraph 14 of the Framework advises that in situations where the presumption at paragraph 11d) applies, the adverse impact of allowing development that conflicts with the NDP is likely to significantly and demonstrably outweigh the benefits. This is provided that the NDP became part of the development plan five years or less before the date on which the decision is made, and that the NDP contains policies and allocations to meet its identified housing requirement. However, as I have not found conflict with the NDP, it follows that it is unnecessary to consider the application of paragraph 14 further. Even so, I have found conflict with the development plan taken as a whole.
28. The proposed development would be located on the edge of the village's development boundary, within walking and cycling distance of local services. The proposed development would not be isolated, and the development would be in an accessible location with opportunities for travel by public transport. Future occupiers would be likely to use a private car to access services located in larger settlements. However, paragraph 110 of the Framework acknowledges that opportunities to maximise sustainable transport solutions will vary between urban

and rural areas. Also, paragraph 83 of the Framework recognises that where there are groups of smaller settlements, development in one village may support services in a village nearby. The proposal would therefore accord with paragraphs 84 and 110, and I afford only limited weight to the proposal's conflict with Policies SWDP2 and SWDP4 of the DP.

29. The proposed development would satisfy the Framework's key policies at paragraphs 129, 135 and 139. These support development that is well-designed and makes efficient use of land taking into account the desirability of maintaining an area's prevailing character and setting, and is sympathetic to local character and history, including the surrounding built environment and landscape setting.
30. In addition to those key policies, paragraph 73 of the Framework recognises that small and medium sized sites can make an important contribution to meeting the housing requirement of an area. The proposal would provide 2 additional dwellings, thus making a small but important contribution toward the area's housing requirement. Considering the magnitude of shortfall in the area's housing supply, the provision of 2 dwellings would make a valuable contribution. I also afford modest favourable weight to the scheme's economic and environmental benefits.
31. Consequently, the adverse impacts of the proposal associated with its location outside the development boundary and conflict with Policies SWDP2 and SWDP4 of the DP, would not significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. Therefore, the presumption in favour of sustainable development applies which is a material consideration that weighs heavily in favour of allowing the appeal.

Conditions and Obligations

32. The PPG advises that there is a default time limit duration of 3 years for a permission in principle and that, it is not possible for conditions to be attached to a grant of permission in principle. The PPG also advises that the amount of residential development must be expressed as a range, indicating the minimum and maximum net number of dwellings, which are, in principle, permitted. As the description of development identifies 2 dwellings, I do not consider it would prejudice either of the main parties to include a range of 1-2 dwellings in granting permission in principle.
33. The Council's officer report acknowledges that a financial contribution towards affordable housing would be required. The PPG advises that planning obligations cannot be secured at the PIP stage. As such, I have not considered the requirement in detail. However, where necessary, this could be addressed at the TDC stage.

Conclusion

34. The proposed development would conflict with the development plan, but material considerations indicate that a decision should be made other than in accordance with it. For the reasons given above, the appeal is allowed and permission in principle approved.

P Brennan (INSPECTOR)