



Appeal Decision

Site visit made on 9 September 2025

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

an Inspector appointed by the Secretary of State

Decision date: 28 October 2025.

Appeal Ref: APP/J1860/W/25/3364297

Land At (Os 7763 4111), Upper Welland Road, Malvern WR14 4JR

- 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 T O'Donnell against the decision of Malvern Hills District Council.
 - The application Ref is M/24/00386/FUL.
 - The development proposed is described as: Proposed erection of 3 detached dwellings (including 1 self-build unit), with associated access off Upper Welland Road.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application form identifies the address of the site as 2 Assarts Lane (No 2) while the appeal form uses Upper Welland Road. The Council used Upper Welland Road on its decision notice. After visiting the site, the site has been separated from No 2, and the site address used on the appeal form is correct and this is reflected in the heading above. Neither the application nor the appeal form references a postcode for the appeal site. I have used the postcode for No 2 in the heading above, which I am satisfied accurately describes the address of the site.
3. 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 only demonstrate 2.06 years supply of housing land.
4. 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. I acknowledge that the appeal site is proposed for inclusion within the settlement boundary as identified on the SWDPR Interactive Policies Map. However, in the absence of details of the extent of any unresolved objections or conclusions regarding the degree of consistency with the Framework and any modifications required, I afford limited weight to the policy that would relate to the proposed settlement boundary change.
5. The appeal site is within the Malvern Wells Conservation Area (MWCA) wherein I have a statutory duty under Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) to pay special attention to the desirability of preserving or enhancing the character or appearance of the area.
6. The Council's officer report identifies that the appeal site is in open countryside and would therefore be contrary to its housing development location strategy

under Policy SWDP2 of the South Worcestershire Development Plan February 2016 (DP). Nonetheless, locational concerns do not form a reason for refusal, and the officer report identifies that the location of the site is not 'unsustainable,' despite Policy SWDP2 being included within the suite of policies cited by the Council's first reason for refusal (RfR). Accordingly, as the location of development is not a matter of dispute between main parties and despite contrary views by interested parties, and the policy reference within RfR one, I see no clear reason within the submitted evidence to question locational matters.

Main Issues

7. The main issues are:

- The effect of the proposed development on the character and appearance of the area, giving special regard to its effect on trees, the Malvern Hills National Landscape (MHNL) and the MWCA;
- The effect of the proposed development on the living conditions of neighbouring occupiers with regard to privacy and outlook;
- Whether adequate information has been submitted to demonstrate the proposal would meet the requirements for self-build housing and whether this would be delivered by an appropriate mechanism; and
- Whether a financial contribution towards off-site affordable housing would be delivered by an appropriate mechanism.

Reasons

Character and appearance

8. The appeal site is a greenfield parcel of land that fronts Upper Welland Road close to its junction with Assarts Lane within the MWCA. The MWCA runs along the eastern slope of the Malvern Hills from the outskirts of Great Malvern to the north to Little Malvern to the south. The MWCA was extended in 1995 to include an area of mainly undeveloped land to the north of Upper Welland Road. This land provides a visual link and green corridor to the adjacent Malvern Hills. The appeal site forms part of this undeveloped area within the MWCA and is also within the MHNL (previously referred to as the Malvern Hills Area of Outstanding Natural Beauty).
9. The special interest and significance of the MWCA is largely derived from the architectural richness and variety of its historic buildings. Its historical significance derives from its growth as a village spa from the late 18th Century, its notoriety as a place of recreation during the 19th Century and as an attractive residential area during the later years. This special interest and significance are further underpinned by an abundance of green space and the open and rural nature of the MWCA's fringes and wider surroundings.
10. The green corridor along the northern side of Upper Welland Road provides an attractive open countryside setting to Malvern Wells and Upper Welland. Therefore, the significance of this part of the MWCA is derived from the open countryside providing a green corridor alongside Upper Welland Road. This creates a spacious and undeveloped character and appearance. Due to the topography of the surrounding area, the site and the proposed dwellings would be

visible from nearby higher areas including the Malvern Hills. Therefore, despite the proposed retention of the front boundary hedge, the site is visible in the wider area and therefore makes a positive contribution to the character and appearance of the area.

11. The proposal would involve the construction of three, one and a half storey dwellings between No 2 and Upper Welland Road. The proposal would introduce built form on an undeveloped site eroding the width of the green corridor. Whilst on the fringe of the MWCA, the site plays an important role in preserving the open and rural nature of the MWCA's edge. The proposal would introduce sizeable new built form into undeveloped space that, at present, positively contributes to the substantial green corridor. Therefore, despite the proposed set back of the dwellings and retention of the hedge, the proposal would have a harmful urbanising effect which, whilst screened, would be apparent on the site.
12. The evidence before me includes an arboricultural report that recommends tree works and indicates that no trees would be removed because of the proposed development. On this basis, the three dwellings proposed would not affect the character and appearance of the area in relation to trees. However, a lack of harm in this respect is a neutral consideration.
13. I note the Council's concern regarding the possibility of the loss of the frontage hedge, which makes a positive contribution to the character and appearance of the area. Whilst the hedge cannot be regarded as a permanent screen and could be reduced in height, die or be removed, providing greater exposure of the proposed dwellings in views along Upper Welland Road, its removal is not proposed. The dwellings are a reasonable distance from this feature, and its retention would provide privacy to the occupiers of the proposed dwellings. On this basis, I find that the hedge would not be under threat of removal by future occupiers.
14. I acknowledge that the proposed dwellings would be sited to retain as much green space to the front of the site as possible, maintaining some of the green corridor and notionally respecting the building line. However, the siting of the dwellings appears contrived, and the layout cramped when compared to neighbouring dwellings constructed along Upper Welland Road. This would be in stark contrast to the neighbouring dwellings, which the appellant has drawn my attention to.
15. The neighbouring dwellings are set within individual, large plots which allow for the provision of rear garden areas alongside significant front gardens which maintain the depth of the existing green corridor. The depth of the appeal site pairs with the depth of the green corridor along this stretch of Upper Welland Road. The neighbouring dwellings have maintained this depth of green space to the front of the plots. Despite the proposed development's siting towards the rear of the appeal site, the depth of the green corridor would be reduced because of the development. When combined with plot size and the provision and location of garden space, the proposed development would be noticeably different and out of character with the prevailing pattern of development.
16. Whilst there is a broad range of architectural styles found in the dwellings within the immediate vicinity of the site, the scale of the proposed dwellings would be taller than the adjacent bungalows and visible above the existing hedge. The proposed dwellings would harmfully intensify development on site, through both

the dwellings and the addition of hard surfacing, lighting, and residential activity within this sensitive landscape and heritage setting.

17. The proposed layout includes garden spaces to the front and side of the dwellings. However, these do not appear to be secure or private and the enclosure of these spaces would have a harmful visual impact on the MHNL and MWCA. Suitably worded planning conditions could be imposed to restrict boundary treatments, extensions, and garden buildings (restricting domestic paraphernalia) however, I do not consider that these restrictions would be reasonable for family housing, illustrating that the development proposed is not suitable for this site. As a result, the rural openness of the MWCA's setting would be materially eroded.
18. Based on my site visit and the evidence before me, I am not satisfied that the scale, size, position, and siting of the proposed dwellings are an acceptable design response for this site. For the above reasons, and despite not finding harm to the character and appearance in relation to trees, the proposed development would fail to preserve the character and appearance of the area and thus the setting and thereby the significance of the MWCA as a designated heritage asset.
19. Under the terms of the Framework, the degree of harm to the significance of the MWCA as a designated heritage asset would be less than substantial. Paragraph 215 of the Framework requires, for development to be found to be acceptable, less than substantial harm must be outweighed by public benefits, which I shall turn to in my Heritage Balance below.
20. With regards to the appeal site's location in the MHNL, I have given great weight to the duty imposed by Section 85 of the Countryside and Rights of Way Act 2000 to seek to further the purpose of conserving and enhancing the natural beauty of National Landscapes. The Framework advises that great weight should be given to conserving and enhancing this area as it has the highest status of protection in relation to landscape and scenic beauty.
21. The MHNL not only includes its recognised ridgeline but also ancient woodlands, orchards, parks, pastures, and commons. Its varied geology provides an array of natural habitats, which supports a wide range of wildlife. It is recognised for its tranquillity and sense of remoteness.
22. The green corridor along Upper Welland Road forms part of the MHNL and provides a visual link between the open countryside and the Malvern Hills. Considering my findings in relation to the MWCA that the development would be out of character with the prevailing settlement pattern on Upper Welland Road and would have an urbanising effect, I consider that the resulting loss of the undeveloped nature of the site would cause harm to the character and appearance of the area. Consequently, I consider that the proposed development would not conserve the natural beauty of the MHNL.
23. Taking into account all the above, the development would cause less than substantial harm to the significance and it would not preserve or enhance the character or appearance of the MWCA. Also, the development would not conserve the MHNL.
24. Accordingly, I find conflict with Policies SWDP6, SWDP21, SWDP24 and SWDP25 of the DP. These policies, amongst other things, support development proposals where they conserve and enhance the significance of heritage assets, including

their setting; conserve and enhance the special qualities of the landscape; and require development proposals to be appropriate to, integrate with and complement the character of the area and landscape setting. The proposal would also be contrary to the Framework which, amongst other things, seeks development that achieves high quality design that is sympathetic to and contributes positively to local character with regard to its surroundings and context and protects and enhances valued landscapes.

Living conditions

25. The development proposed comprises three detached dwellings of which one would be for self-build housing. The dwellings would be of a contemporary, one and a half storey design with the first floor being partly located within the roof space. The development would be sited to the rear of the site, almost immediately adjacent to the rear site boundary, with private garden space and car parking located to the side and front. An area of green communal space and the existing hedge would be retained to the front.
26. The dwellings have been designed to have limited windows to the sides at first floor level and only an obscurely glazed rooflight is proposed to the rear. The separation distances to the neighbouring dwellings at no 93 and no 101 Upper Welland Road are considered acceptable. Any loss of privacy that may occur to existing occupiers from the first-floor side facing windows, should the hedge die or be removed, could be addressed by the imposition of a planning condition requiring obscure glazing to the proposed secondary bedroom windows.
27. Due to the existing land levels, the proposed dwellings would sit above the adjacent property at No 2. However, due to the orientation of No 2 and the position of its outdoor space, the proposed dwellings would not overlook the existing outdoor space, nor would a loss of privacy to the existing residents occur as no windows are proposed on the rear elevations of the dwellings. The dwellings, due to their one and a half storey design would not be overbearing or visually intrusive to the occupiers of No 2.
28. Due to the possibility of the front hedge being removed in the future, harm to the living conditions of existing occupiers opposite the site may occur due to a loss of privacy and outlook. The proposed houses would have substantial amounts of glazing to the front including Juliette balconies at first floor. However, the evidence before me illustrates that the proposed and existing dwellings opposite the site would have a front-to-front separation distance of more than 25 metres. Given my site observations, with or without the front hedge, a sufficient separation distance would exist and no material harm to the living conditions of existing occupiers due to a loss of privacy or outlook would occur.
29. The proposed development would have minimal private space to the rear. As a result, the garden space would be located to the front and side of the proposed dwellings. Despite the layout proposing the frontage shared green space as a communal grass meadow, the possibility of the area to the front being used by any future occupiers as amenity space remains, particularly given that the shared front area would be enclosed and secure due to the existing boundary hedging. Whilst this may occur, the effect on the living conditions of adjacent occupiers would be limited.

30. Consequently, I find that the proposed development would not conflict with Policy SWDP21 of the DP which, amongst other things, requires development to provide an adequate level of privacy, outlook, sunlight, and daylight, and not be unduly overbearing.

Self-build housing

31. The proposed development includes one dwelling for the purposes of self-build. The Self-Build and Custom Housebuilding Act 2015 (the SBCH Act) requires local planning authorities to establish and publicise a register of those who are seeking to acquire serviced plots of land in the authority's area for their own self-build and custom housebuilding. Section 2A, of the SBCH Act, requires a local authority to grant sufficient self-build permissions to be in keeping with local need as set out on the self-build or custom housing (SBCH) register. Whilst no up-to-date figures are provided regarding the supply and demand for self-build plots within the district, as of October 2023, the Council recorded a shortfall of twenty-five plots.
32. Paragraph 73(b), of the Framework, supports small sites to come forward for self-build and custom-build housing. The Framework also supports the delivery of a variety of land coming forward to meet the needs of groups with specific housing requirements including for those people wishing to commission or build their own homes.
33. The submitted Unilateral Undertaking (UU) would deliver the self-build dwelling. This includes the necessary elements for the proposal to comply with the definition of the SBCH Act, requiring that the occupier will have input into the final design, that the end occupier will live in the dwelling for a minimum of three years and that the Council will be notified of the end occupier.
34. The appeal seeks permission for three dwellings with the external design having already been finalised. The evidence before me includes a signed letter from both the architect and appellant outlining their input into the final design. This outlines that once the design of the self-build dwelling was finalised by the appellant; it was replicated for the other two dwellings.
35. Based on the submitted evidence, I conclude that the Council is failing to meet its statutory duty with respect to the delivery of plots for SBCH dwellings which weighs in favour of the proposal. I am satisfied that the UU before me would provide the one dwelling within the three proposed for the purposes of self-build housing in accordance with the SBCH Act.

Affordable housing

36. Policy SWDP15 of the DP outlines that a financial contribution towards local affordable housing provision will be sought on sites of less than five dwellings based on the cost of providing the equivalent in value to 20% of the units as affordable housing on site.
37. The application was refused as a mechanism was not in place to secure the financial contribution towards local affordable housing provision. The evidence before me includes a UU to secure a contribution of £38,391 towards the cost of affordable housing (being £12,797 per dwelling), that I understand represents a 20% provision. I am satisfied that the UU would deliver the requested local affordable housing contribution in accordance with Policy SWDP15 of the DP.

Other Matters

38. The proposed development would be subject to the requirement to achieve 10% Biodiversity Net Gain (BNG) for the two, non-self-build dwellings. A BNG matrix has been submitted within the evidence that shows that alongside the retention of all hedging on site, additional landscaping would provide biodiversity enhancements. The matrix concludes that the proposal would achieve an on-site BNG of 11.51% for habitats and 35.53% for hedgerows. Consequently, I am satisfied that the development could achieve the required 10% BNG and that the Biodiversity Gain Plan condition, required by paragraph 13 of Schedule 7A of the TCPA 1990, is capable of being successfully discharged.
39. Despite several letters of support for the proposal, this is not a reason in itself to allow development which I have found to be visually harmful. The appellant has drawn my attention to three appeal decisions, two of which relate to the appeal site and the third being in the adjacent district. The two previous decisions on the appeal site were dismissed due to the effect of the proposed development on the MWCA and the MHNL. The third decision, from 2020, for self-build housing was allowed, despite its location outside of a settlement boundary. This was due to the identified shortfall in supply of self-build housing and was not within a conservation area or National Landscape. On this basis, the third appeal decision is not comparable to the appeal in front of me.
40. The appellant has also drawn my attention to a draft conservation area appraisal (not dated) where the appeal site was proposed to be removed from the MWCA boundary. However, as this document has not progressed and has not been adopted, limited weight can be afforded to it.

Heritage Balance

41. I have identified above that the scheme would cause less than substantial harm to the heritage significance of the MWCA. It must be noted that even less than substantial harm to a designated heritage asset carries great weight.
42. In terms of public benefits, the proposal would deliver three dwellings, one of which would be a self-build within a District where a 2.06-year housing land supply is in existence, which falls significantly below the level of supply required by national policy and a shortfall of self-build plots exists. Three additional dwellings would make a valuable contribution to the Council's housing land supply and thus would contribute to the Government's objective to significantly boost the supply of homes. The development would also provide a financial contribution towards the provision of affordable housing. Given the current housing land supply position, the benefits of delivery of even a small number of new homes which include a self-build dwelling are increased. Overall, this benefit attracts moderate weight.
43. The appeal scheme would also provide construction jobs and some local investment during its build out, as well as longer term expenditure in the local economy. Additional landscaping on site would also provide biodiversity enhancements more than the required 10% BNG. Additional benefits would also ensue from the provision of solar panels to the dwellings. However, I attach limited weight to each of these benefits considering the scale of development proposed and the modest size of the site in question.

44. Therefore, overall, I attach moderate weight to the combined benefits of the proposal.
45. Whilst the proposed development's public benefits attract moderate weight when considered cumulatively, they would not outweigh the great weight applied to the harm that would be caused to the heritage significance of the MWCA.

Overall Planning Balance

46. On consideration of the Council's housing land supply position, paragraph 11(d) i) of the Framework indicates that the presumption in favour of sustainable development should be engaged unless the application of policies in the Framework that protect areas or assets of particular importance provide a strong reason for refusing the development proposed. Footnote 7 of paragraph 11(d) of the Framework lists designated heritage assets and National Landscapes as assets of particular importance.
47. For the avoidance of doubt, as I have found harm to the significance of the MWCA and that the proposed development would not conserve the natural beauty of the MHNL which, provides strong reasons for refusing planning permission, the presumption in favour of sustainable development is not engaged. Consequently, because of the harm I have found, there is conflict with Policies SWDP6, SWDP21, SWDP23, SWDP24 and SWDP25 of the DP.
48. Accordingly, the proposal conflicts with the development plan when read as a whole and the material considerations I have identified in my Heritage Balance above – even though attracting of moderate positive weight in the context of a substantial housing land supply shortfall – do not outweigh that conflict.

Conclusion

49. For the reasons given, the appeal is dismissed.

P Brennan

INSPECTOR