



Appeal Decision

Hearing held on 17 February 2016

Site visit made on 4 March 2016

by I Radcliffe BSc(Hons) MCIEH DMS

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 28 April 2016

Appeal Ref: APP/H1840/W/15/3135664

Hurst Farm, Wyre Road, Pershore WR10 2JP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Keetley Developments against the decision of Wychavon District Council.
 - The application Ref W/14/00045/OU, dated 9 January 2014, was refused by notice dated 2 April 2015.
 - The development proposed is 93 dwellings with access roads and provision of wetlands and footpaths and landscaping.
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Decision

1. The appeal is dismissed.

Procedural matters

2. The application was submitted in outline, with only access to be determined at this stage. The appellant has submitted plans with the application indicating how the site could be developed for 93 dwellings. As the application is in outline the appellant is not tied to the detail shown on the plans. However, the appellant advised at the hearing that the plans showed the scheme that was intended to be built. As a result, I have treated the plans as indicative of the appellant's intentions and have accordingly assessed the application on this basis.
3. At the hearing, it was confirmed that on 4 February 2016 the Inspector's report on the examination of the South Worcestershire Development Plan (SWDP) had been published and found sound. As a result, I was advised that the Council would be considering a report recommending adoption of the SWDP at a meeting on 24 February and since the close of the hearing it has been confirmed that the SWDP has been adopted. As a consequence, the Council has confirmed that policies GD1, ENV1 and SR5 of the Wychavon District Local Plan cited in the Council's decision notice no longer form part of the development plan and have been replaced by policies of the SWDP. Accordingly, I have determined the appeal on this basis.
4. A properly completed section 106 agreement was submitted after the close of the hearing which I have considered as part of the appeal. It secures financial contributions towards the provision of on site affordable housing, a wetlands meadow, local infrastructure and services. Its terms are addressed in more detail within the decision.

Main Issue

5. The main issue in this appeal is whether new housing in this location would be acceptable, having regard to the principles of sustainable development.

Reasons

Planning policy and housing land supply

6. Applications for planning permission are determined in accordance with the development plan unless material considerations indicate otherwise. The National Planning Policy Framework ('the Framework') is an important material consideration. A core planning principle of the Framework is that decision taking should be genuinely plan led, empowering local people to shape their surroundings, with succinct local and neighbourhood plans setting out a positive vision for the area.
7. The development plan for the area includes the South Worcestershire Development Plan (SWDP) which was adopted with effect from 25 February 2016. At present there is no neighbourhood plan that applies to the appeal site. In order to further sustainability objectives, and in the interests of protecting the countryside, policy SWDP 2 sets a development strategy for South Worcestershire. Among other things, windfall development proposals, such as the appeal proposal, are to be assessed in accordance with the identified settlement hierarchy, which has the city of Worcester at the top. Pershore is classified as an 'other town' in the third tier, with two categories of settlements in rural areas below that, where some new windfall housing is supported within villages.
8. The appeal site is located outside of the development boundary for Pershore as defined in the SWDP. It is not an allocated site, nor is it an agreed urban extension, nor is it within a village where windfall development may be appropriate. As a consequence, for planning policy purposes it lies within the open countryside where new development is strictly controlled by policy SWDP 2. It is no part of the appellant's case that the proposal accords with the exceptions set out in this policy.
9. Paragraph 49 of the Framework advises that housing applications should be considered in the context of the presumption in favour of sustainable development. Paragraph 14 sets out how that is to be applied in practice, advising that proposals which accord with the development plan should be approved without delay. Where the development plan is absent, silent or relevant policies are out of date, it advises that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, or specific policies of the Framework indicate that development should be restricted. Policy SWDP 1 which reflects the wording of paragraph 14, is consistent with the Framework.
10. If a local authority cannot demonstrate a five year housing land supply the Framework advises that relevant policies for the supply of housing should not be considered to be up to date. It is common ground in this case that the Council can demonstrate a robust five year housing land supply at the present time. Accordingly, those circumstances do not exist here. In relation to the criteria of paragraph 14, a development plan is present and, in directing development to sustainable urban locations, and in seeking to protect the countryside, policy SWDP 2 is consistent with paragraph 17 of the Framework.

As a result, the development plan is not silent in relation to this proposal and its policies relevant to the scheme are not out of date.

Character and appearance

11. Of the policies referred to I consider policies SWDP2 and SWDP 25 to be relevant to this issue. A core planning principle of the Framework is that the intrinsic character and beauty of the countryside should be recognised in decision taking. Policy SWDP 2 strictly controls new development in the open countryside and policy SWDP 25 seeks development that is appropriate to its landscape setting and where possible enhances the landscape. Both policies are therefore consistent with this principle. In assessing the effect of the proposal on the character and appearance of the countryside, I have taken into account the Landscape and Visual Assessment Report, the comments made in relation to the site and my observations during the site visit.
12. The appeal site lies beyond the development boundary for Pershore within the open countryside. A builder's yard, on its south western side, separates the appeal site from agricultural land on the edge of Pershore that has been allocated for housing by the development plan. Planning permission has recently been granted for this allocated site.
13. The appeal site consists of open hedged fields of pasture. Located on the south east facing slopes of a broad shallow ridge, and including level land at the bottom of the slope, it has been classified by the County Council's Landscape Character Assessment as comprising Principal Village Farmlands and Riverside Meadows character types. The characteristics of the former include a rolling lowland topography of agricultural fields. The latter is characterised, amongst other features, by flat fields of pasture with trees along watercourses and hedges. As an open area of countryside that contains these characteristics the appeal site makes a positive contribution to the countryside and local landscape. This is particularly apparent in views from Mill Lane where the site forms part of the open elevated area of attractive countryside, to the north east of the builder's yard on Wyre Road, that overlooks the rugby football ground, boat yard and holiday home park close to the river Avon.
14. On the opposite side of Wyre Road, facing the appeal site, is a business park set on level land behind a wide strip of undeveloped land identified as a Significant Gap in the SWDP. Development is also occurring next to the business park on land to the north east. A different Significant Gap identified by the SWDP, next to this area of land, serves to separate it from the village of Wyre Piddle. As a result, the distinctly urban and industrial character of land to the north of the appeal site is, largely, successfully contained and softened by the Significant Gaps and planting that separates much of it from Wyre Road. Due to this set back and the topography of the appeal site, the business park and related development is almost entirely hidden from view when viewed from Mill Lane.
15. As noted in the report on the examination of the SWDP, development of the site would erode the undeveloped gap separating the edge of development in Pershore and the village of Wyre Piddle. However, as a wide gap would remain between the two settlements, they would remain separate and would not visually coalesce.
16. The proposed development would result in approximately 4 hectares of open countryside being lost to development. Housing would consist of closely spaced two storey semi-detached dwellings along the northern side of the site

with a transition to detached bungalows along the southern edge of the sloped area. Structural planting would be used, particularly along the base of the slope to soften and filter views of houses on the site. A managed wetland would be created with a large pond within the southernmost part of the site that falls within the Riverside Meadows character area. To the north east, ridge and furrow farmland within the site would be retained as pasture preventing a hard edge to this side of the development.

17. The Riverside Meadow portion of the site would be re-landscaped to create a large pond and wetland. Whilst different in character from the existing meadows, this part of the site would be open and free of built development and thus would have a neutral effect on the character and appearance of the surrounding area.
18. The appellant states that, with the proposed mitigation, the overall effect of the scheme in terms of the 'Guidelines for Landscape and Visual Impact Assessments' would not be significant. The position of the Council is that the effect would be significant.
19. In my judgement, whilst trees planted as part of the proposal would help soften and visually break up the development, the urbanising effect of houses on this sloping site, and the resulting loss of attractive countryside, would be readily visible in close public views from Wyre Road and in more distant views from Mill Lane. As it would also form part of the backdrop to the rugby football ground and holiday home park, it would also be readily apparent to those who visit and use these facilities.
20. The urbanising effect and loss of countryside would be apparent throughout the year, but most particularly during the colder months when trees are not in leaf. As a result, I consider that the scheme would have a significant adverse effect on the local landscape. I recognise that with the control that exists at reserved matters stage, a well designed development could be achieved. However, this would not negate the adverse effects on the countryside and landscape that I have described.
21. The appeal site, positioned to the west of the village, lies close to but outside the Wyre Piddle Conservation Area. The heritage significance of the Conservation Area, deriving largely from the design and grouping of its older buildings, is architectural and historical. As the appeal site lies outside the Conservation Area the relevant issue, having regard to section 12 of the Framework, is the effect that the proposed development would have on the heritage significance of the Conservation Area, which may include its setting. A number of listed buildings are present within the Conservation Area. Their special interest derives largely from their age and architectural form.
22. Two listed buildings, Wyre Mill and Mill House are located at the end of Mill Lane, approximately 400m to the south of the site, outside the Conservation Area. Again, their special interest, it seems to me, is largely architectural and historical and relates to their immediate rather than extended setting. The statutory test in relation to a listed building is that special regard shall be had to the desirability of preserving the building, or its setting, or any features of special architectural or historic interest which it possesses.
23. There is no intervisibility between the appeal site and the Conservation Area or the listed buildings within it, by virtue of an intervening hillock. There is no suggestion, in this regard, that the appeal site makes any contribution to the heritage significance of those assets as an integral part of their setting. There

is no suggestion either, that the development would adversely affect views into or out of the Conservation Area. Whilst the appeal site may lie within the wider setting of the listed buildings located at the end of Mill Lane to the south, there is nothing to suggest that the site makes any material contribution to their special interest. There would be no harm, therefore, as a consequence of the development proposed, to their setting or heritage significance, or to the ability of the public to interpret their significance.

24. Notwithstanding my favourable findings in relation to the heritage significance of the Conservation Area, or to the special interest of the listed buildings, demonstrable harm would be caused to the countryside and landscape through loss to development of these fields of pasture in an elevated and prominent position. This would be contrary to policies SWDP 2 and SWDP 25.

Accessibility

25. Pershore is less than a third of the size of the main towns and has fewer high level services. Nevertheless, the range of services and facilities it does have means that it acts as a local service centre.
26. The appeal site is located beyond the north eastern edge of the town. The Framework seeks to give people a choice of sustainable transport options. Consistent with the Framework policy SWDP 4 requires, amongst other matters, that proposals must offer genuinely sustainable transport choices. The justified reasoning to the policy confirms that the overarching development strategy of the SWDP is to focus development where it has good access, by sustainable modes of transport, to local services.
27. The location of the proposed development therefore needs to be assessed in this regard. No bus services pass by the appeal site, and none is proposed in connection with the appeal. In terms of walking, it is proposed to extend the existing footway along Wyre Road into Pershore. It is also proposed that a footpath that links Wyre Road to the centre of the nearby business park, and the facilities along the northern end of Station Road, would be upgraded so that it would be suitable for wheelchair and pushchair users.
28. Whilst much of the business park, which could provide employment opportunities for future residents, is within comfortable walking distance, it was agreed at the hearing that the nearest bus stops, the train station, supermarket and public entrance to the secondary school were more than 800m away on foot from the entrance to the appeal site. Distances from within the appeal site, where the housing would be located, would be further away than this. The nearest first and middle schools, along with the town centre, are approximately 1600m away from the site entrance. In my assessment, having regard to national guidance contained within Manual for Streets, one way walking distances of over 800m are likely to result in a neighbourhood where future residents would choose not to walk to access public transport or off site facilities.
29. Furthermore, sections of the route to the train station, through the older trading estate part of the business park, involve the use of surfaces shared with vehicles and are unlit in places. As a result, it would not necessarily be an attractive route for regular use by pedestrians, particularly during the darker months of the year.
30. A pedestrian link from the southern side of the appeal site via the allocated housing site to the south west to the town centre is proposed. However, this

would not markedly shorten walking distances and nothing has been submitted that secures the agreement of the adjoining land owner to such a scheme.

31. Local facilities are within a reasonable cycling distance of the appeal site and the section 106 agreement provides for the creation of a cycle link from the site to a cycle route on Station Road. For those who are able to cycle this would be a sustainable transport option. Nevertheless, in contrast to other recent permissions for housing along Station Road and on the edge of Pershore on Wyre Road, and the recently dismissed appeal on land closer to Pershore on the northern side of Wyre Road¹, bus services, local services and facilities from the appeal site are further away and not as accessible on foot.
32. Whilst some facilities may be reasonably accessible by cycling and /or walking and a travel plan would be provided to promote sustainable transport, it seems to me that future occupiers would be likely to opt to rely on the use of private cars in order to access day to day facilities, services and employment opportunities. I recognise that such car journeys may be short in length, with the Transport Assessment demonstrating that the development would not generate levels of traffic that would exceed the capacity of the local highway network. That does not overcome my concerns however, in relation to the fundamentally unsustainable nature of the location in terms of accessibility. All in all, I am not persuaded that the proposal would offer genuinely sustainable transport choices. The proposal would therefore be contrary to policy SWDP 4.

Other considerations

33. The housing scheme would help address housing need, although there is currently no shortfall in the required supply and, as 40% of the properties would be affordable housing, the scheme would have social benefits. However, the weight that I attach to this benefit is tempered by the consideration that the requirement of the SWDP to provide such a proportion of affordable housing would apply to other residential developments that comply with the development plan that come forward.
34. In terms of the economy, new development would create employment and support growth during the construction period. The increase in the population would also boost the spending power of the local economy to some extent. Environmentally, the appeal site has limited ecological value and the proposed wetland on the southern part of the site would be likely to attract certain species of birds including migrating species. This would be a noteworthy environmental benefit.
35. Reference has been made to a large number of appeals in the last four years where planning permission has been granted on appeal for housing schemes located outside of the defined development boundaries of settlements, or where there is a resolution to grant planning permission for such development. Equally, a significant number of appeals since 2014 have been referred to where appeals for housing located outside settlement boundaries have been dismissed.
36. The considerations that are taken into account in determining planning applications, such as the existence or not of a five year housing land supply and an up to date local plan, vary over time. As a result, I consider that of the decisions referred to in support of the proposal the Fernhill Heath decision², as

¹ Reference APP/H1840/W/15/3010104

² Reference APP/H1840/W/15/3003157

the most recent allowed appeal, is the most relevant. In this appeal the Inspector attached only limited weight to the SWDP, as consultation on its main modifications was not complete at that time. He also found that only some harm would be caused to the character and appearance of the countryside. In contrast, in the appeal before me the SWDP now forms part of the development plan and I have found that demonstrable harm would be caused to the countryside and landscape. As a result, the Fernhill Heath decision is not directly comparable to the proposal before me.

37. It is an established principle that each appeal must be considered on its own merits. The decision maker in relation to this appeal and the other appeals and decisions referred to exercised their judgement on the evidence in relation to those particular cases. I must similarly use my judgement in respect of the evidence before me. As a result, this appeal decision and the other decisions where permission was granted, or resolved to be granted, have not altered my assessment of the proposed development.

Other matters

38. The appeal site would have a single vehicular access point onto Wyre Road. Satisfactory visibility splays would be provided to the access and the Highway Authority confirmed at the hearing that it had no objections to the proposed development on highway safety grounds. On the basis of what I have read and seen I agree with that position.

Planning balance and overall conclusion

39. The policies of the Framework as a whole constitute the Government's view of what sustainable development means in practice. There are three dimensions to sustainable development: environmental, economic and social.
40. In this case, the proposal would be contrary to policy SWDP 2 in that it would be a housing development in the open countryside, outside the development boundary of Pershore. There would also be conflict with policy SWDP 4 given that the proposal would not offer genuinely sustainable transport choices. I attach some weight to the economic and social benefits of additional housing, including affordable housing, and noteworthy weight to the wetland proposed which is an environmental benefit that would increase biodiversity. However, this has to be balanced against the demonstrable harm that would be caused to the countryside and landscape through the loss to development of approximately four hectares of pleasant attractive open countryside in an elevated and prominent position to development.
41. Of importance also is that the proposal would fail accord with, and thus would undermine, the SWDP which has been very recently adopted. It seeks to direct the location of housing towards sustainable urban areas and strictly limit new dwellings in the open countryside. As a result, there would also be conflict with the economic dimension of sustainability which seeks to ensure, amongst other matters, the delivery of land in the right place at the right time.
42. Having considered all the matters raised, the collective benefits of the proposed development are of insufficient weight to indicate that the proposal should be determined other than in accordance with the development plan. As a consequence, I therefore find that the proposal cannot be considered to be a sustainable development and so would be contrary to policy SWDP 1. The appeal should therefore be dismissed.

43. The appellant, I recognise, will be disappointed with this outcome, given that during the early part of the process of preparing the SWDP the site was one that was considered to be potentially suitable for residential development. However, it is not a site that has been allocated for development in the SWDP and for the reasons that I have given in this decision, I have found the concerns of the Council and local residents to be justified.
44. As I noted as a procedural matter, at the request of the Council the appellant has submitted a properly completed section 106 agreement. The tests in paragraph 204 of the Framework and regulations 122 and 123 of the Community Infrastructure Levy Regulations 2010 (as amended) apply to planning obligations. In this case however, as the appeal is to be dismissed on its substantive merits, it is not necessary to assess the agreement against these requirements.

Ian Radcliffe

Inspector

Richborough Estates

APPEARANCES

FOR THE APPELLANT:

Mr Alexander	Ainley Alexander Partnership Limited
Mr Ainley	Ainley Alexander Partnership Limited
Mr Spacie	Aspen Landscape Design [Planning] Services
Mr Woods	woods ferrer limited
Mr I. Keetley	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Mrs Worley	Wychavon District Council
Principal Planning Officer	
Mrs Burridge	Wychavon District Council
Policy Planning Officer	
Mrs Marshall	Wychavon District Council
Landscape Officer	
Mr Pilcher	Worcestershire County Council
Highways officer	

INTERESTED PERSONS:

Charles Tucker	Councillor for Pershore Ward, Wychavon District Council
Liz Tucker	Councillor for Pinvin Ward, Wychavon District Council & Councillor for Pershore Division, Worcestershire County Council
Val Wood	Councillor for Pershore Ward, Wychavon District Council
Mr Rowley	Councillor for Pershore Ward, Wychavon District Council
Mr A Keetley	local resident
Mr Robinson	local resident

DOCUMENTS SUBMITTED AT THE HEARING

- 1 Table of appeal decisions allowed outside GD1 in Wychavon between 2012 and 2015 and accompanying map identifying their location
- 2 Appeal decision reference APP/H1840/W/15/3003157
- 3 Appeal decision reference APP/H1840/W/15/3010104
- 4 Appeal decision reference APP/H1840/W/15/3136087
- 5 Appeal decision reference APP/H1840/W/15/3131722
- 6 Landscape character – extracts and screenshots from Worcestershire County Council Landscape Character Assessment Guidance and associated on line maps
- 7 Report on the Examination of the South Worcestershire Development Plan (4/2/16), together with a committee report for the Council meeting on 24/2/16 recommending adoption of the SWDP and copies of the final text of relevant policies from the SWDP
- 8 Appendices to the Landscape and Visual Assessment conducted as

- part of the planning application.
- 9 Draft second version of a section 106 agreement in relation to the site

DOCUMENTS SUBMITTED AFTER THE CLOSE OF THE HEARING

- 1 E-mail dated 24/2/16 from the District Council identifying the SWDP policies that support the planning obligations sought and clarification as to the number of obligations collected towards local projects since April 2010.
- 2 Section 106 agreement dated 4 March 2016 in relation to the site.
- 3 E-mail dated 24/3/16 from the District Council identifying the policies of the SWDP that have replaced the policies of the Wychavon District Local Plan cited in the Council's decision notice

PLANS SUBMITTED AT THE HEARING

- 1 SWDP Policies Map Extract for Pershore showing Housing, Mixed Use and Employment Allocations in the context of other restraints.
- 2 Wyre Piddle Conservation Area Map showing the western end of the Conservation Area, and the listed building within it, closest to the appeal site.

PLANS SUBMITTED AFTER THE HEARING

- 1 Site location plan for appeal decision reference APP/H1840/W/15/3003157
- 2 Site location plan for appeal decision reference APP/H1840/W/15/3010104