



Appeal Decision

Hearing held on 12 July 2016

Site visits made on 11 & 12 July 2016

by Nick Fagan BSc (Hons) DipTP MRTPI

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

Decision date: 17 August 2016

Appeal Ref: APP/H1840/W/15/3140480

Land to the south of Crest Hill, Harvington, Worcestershire WR11 8NS

- 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 Messrs Taylor, Black, Byrd & Middleton against the decision of Wychavon District Council.
 - The application Ref W/15/02114/OU, dated 14 August 2015, was refused by notice dated 18 November 2015.
 - The development proposed is described as an outline application for the development of up to 67 new dwellings including part change of use.
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Decision

1. The appeal is dismissed.

Application for costs

2. At the Hearing the appellants signalled their intention to apply for partial costs against Wychavon District Council. Due to lack of time at the Hearing itself this application was made subsequently, with the Council given an opportunity to rebut the application and the appellants being given a final comment as is customary. This application is the subject of a separate Decision.

Procedural Matters

3. The application is in outline with only access being determined at this stage. Indicative plans including a site layout and indicative landscaping proposals have been submitted that show how the development could be provided on the site.
 4. The Statement of Common Ground makes clear that policies in the Wychavon District Local Plan 2006 including those mentioned in the Council's refusal reasons have been superseded by those in the South Worcestershire Development Plan (SWDP), which was adopted on 25 February 2016.
 5. A signed and dated S106 agreement (S106) between the appellants, the District and County Council has been provided during the course of the appeal. I address this below.
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Main Issues

6. The main issues are whether the proposed development would:
 - a) Be in an acceptable location in terms of extant planning policy, given the site's location is mainly outside the development boundary and the existence of a housing land supply above five years (5YHLS);
 - b) Have an unacceptable effect on the village in terms of cumulative impact and community cohesion;
 - c) Harm designated heritage assets in the village;
 - d) Harm the wider landscape including the nucleated settlement pattern of the village; and
 - e) Exacerbate the risk of flooding in the area.

Reasons

Location and Planning Policy

7. The appeal site is a 3.68ha area of rough pasture land on the southeast edge of Harvington, a village of about 700 dwellings situated about 5km north of Evesham. About 20% of the site, the part of it next to Bromley Close, lies within the village's development boundary and has extant planning permission for 9 dwellings; this is also an allocated site for 9 dwellings in Policy SWDP59 of the SWDP. This part of the site is fairly level but the rest slopes steeply down from Crest Hill to the southeast towards the Harvington Brook and the lower Evesham spur road, and the A46 and River Avon beyond. The rest of the site is outside the development boundary, although it also abuts it on its southern edge.
8. Policy SWDP2 sets out a number of principles for the South Worcestershire development strategy and settlement hierarchy, including the delivery of sufficient housing to meet objectively assessed needs (OAN) to 2030, focus most development on the urban areas and safeguard the open countryside, which is defined as land beyond any development boundary and where development will be strictly controlled. The proposed development would clearly be contrary to this Policy.
9. SWDP Annex D categorises Harvington as a Category 2 village following the results of the Village Facilities Survey and the Rural Public Transport Survey. Such villages have at least two key services including a shop and access to at least daily services for employment and shopping purposes. There is a bus stop on Village Street very close to the site with a service that provides 2 buses per hour Monday to Saturday to Evesham and Stratford. However, the convenience store is on the north side of the B4088 and is more than 800m from the site, which is customarily considered a walkable distance; it would certainly not be walkable for older people living on the site. I also note that the Post Office, which was nearer, is on the point of closing or has closed, albeit that it may be relocated to the convenience store in the near future.
10. It would be possible to cycle into Evesham but the road is fairly busy with fast traffic and I doubt that many residents do so, especially to go to work. There are few employment facilities in Harvington and it seems to me that most residents are likely to work outside the village and use their cars for accessing their jobs and other facilities in Evesham and the larger towns beyond. Whilst

Harvington has a range of facilities, including a reasonable bus service, these facilities are certainly no better than a typical Category 2 village, which lies fourth in the hierarchy of five settlement categories in Policy SWDP2.

11. SWDP2 sets out to focus development in the Wider Worcester Area, the main towns of Droitwich Spa, Evesham and Malvern and the other towns of Pershore, Tenbury Wells and Upton-upon-Severn. Only infill development within the defined development boundaries of Category 1, 2 and 3 and lower category villages and affordable housing rural exception sites will be allowed, excepting the allocations set out in Policy SWDP59. Those allocations reflect the extent of local service provision, the size of the settlement, and the availability of suitable, deliverable and developable land, and in this latter regard also reflect recent planning permissions including those granted on appeal – as for instance at Drakes Broughton.
12. The appellants draw unfavourable comparisons between the 129 homes allocated in Drakes Broughton and the 9 homes in Harvington. But the allocations in the Category 2 villages range from 5 to 129 and are merely a reflection of the above factors. It does not follow that because Drakes Broughton has an allocation of 129 that Harvington should have a similar number or the 67 dwellings proposed here.
13. The appellants also argue that there is a specific need for 29 affordable houses in Harvington and that it would meet the vast majority of this need by providing 27 such dwellings or 40% of the total units via the S106. I accept that 27 affordable housing units are a significant social benefit of the scheme and would help to meet a local need for such units but such a level of provision does no more than comply with Policy SWDP15, which the SWDP's spatial strategy suggests would be better provided elsewhere.
14. I also heard from the Council at the Hearing that the need for 29 units is not just for Harvington but is a reflection of households with a local connection that have a preference for Harvington or adjoining Parishes. The Council also stated that of an overall affordable housing requirement of 3,300 between 2006 and 2030, 1,849 are already being provided¹. This appears to be a good rate of delivery less than half way through the SWDP period, especially as the overall rate of housing delivery has speeded up considerably in recent years and the larger allocations in the Plan will be likely to deliver significant amounts of affordable units in accordance with Policy SWDP15.
15. The appellants draw my attention to the expressed need in the National Planning Policy Framework (NPPF) to boost significantly the supply of housing; that housing applications should be considered in the context of the presumption in favour of sustainable development; and to various recent appeal decisions in which it was essentially stated that there is no ceiling on housing permissions even where, as in this case, the local planning authority can demonstrate an agreed 5YHLS.
16. I acknowledge all these material considerations. But sustainable development is defined in NPPF paragraph 6 as the policies in paragraphs 18 to 219 taken as a whole. The aim to boost significantly the supply of housing set out in paragraph 47 does not trump the policies in the NPPF taken as a whole. Anyway, in this case the Council can demonstrate a 5YHLS and so Policy

¹ 1,211 completed, 101 under construction and 537 with planning permission where construction not yet started

SWDP2 is up-to-date, which means the 'skewed' balance set out in the fourth bullet point of paragraph 14 is not engaged.

17. More importantly, NPPF paragraphs 11, 12, 17 and 196 state that the planning system is plan-led and that planning law requires that planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise². Whether or not a development is genuinely plan-led is therefore an important facet of sustainability.
18. In summary in terms of the location of the proposed development, it would fail to comply with Policy SWDP2. The SWDP was adopted very recently and this appeal should be determined in accordance with it unless material considerations indicate otherwise. I note that the two allowed appeal decisions in the District cited by the appellants³ were both decided before the SWDP was adopted.
19. The Council cited an appeal dismissal of a development for 93 dwellings on the edge but outside of the development boundary of Pershore that was made since the adoption of the SWDP⁴. The Inspector in that case considered it important that the proposal failed to accord with the very recently adopted SWDP and would undermine it⁵. I consider the appeal proposal would also undermine the very recently adopted SWDP, and that it would fly in the face of the NPPF's aims to uphold the plan-led system.
20. The above material considerations raised by the appellants do not justify such a major housing development outside the development boundary of a village in the District, which has a very recently adopted local plan that delivers the area's OAN including a 5YHLS in a sustainable way without requiring this site. For these reasons I conclude that the proposed development would not be in an acceptable location in terms of extant planning policy.

Cumulative Impact and Community Cohesion

21. The Council point out that another proposal for 155 dwellings to the west of the village, which it refused in April 2016, would with this scheme bring forward 222 dwellings if both were to be allowed on appeal and argues that this would be a large cumulative impact on a village of only 700 or so dwellings. I agree that cumulatively this would be a large percentage increase in dwelling numbers. However, as far as I am aware that scheme has not yet been appealed, let alone permitted, and so such cumulative impact is merely speculative and carries little weight as a refusal reason.
22. The Council's particular concerns about community cohesion are that the development would not be conducive to maintaining appropriate accessibility to services/facilities, and to the social wellbeing of the community. In terms of the latter concern I understand this stems from the village's alleged inability to absorb such a relatively high number of residents all at once when historically the village has grown at a slower pace. However, I do not see why 67 new households could not in principle be successfully integrated into the village

² Section 38(6) of the Planning and Compulsory Purchase Act 2004 and Section 70(2) of the Town and Country Planning Act 1990

³ APP/H1840/W/15/3005495 & APP/H1840/W/15/3008340

⁴ APP/H1840/W/15/3135664, 28 April 2016

⁵ Ibid paragraph 41

because they would move into the development over a period of about five years as the various homes were completed.

23. In terms of facilities I have already indicated above that Harvington has a typical provision for Category 2 villages, albeit that the village shop is not walkable distance from the site. There is however a first school, church, village hall, recreation ground and two pubs which are within walkable distance. The S106 would provide for various off-site financial contributions towards Harvington's sports, recreation and community facilities which would not only mitigate the effect of the development on such village facilities but would also benefit existing village residents. In any case, additional residents in the village would be likely to sustain existing services and facilities. The Council did not challenge the appellants' assertion at the Hearing that the school has spare capacity.
24. I therefore conclude that the proposed development would not have an unacceptable effect on the village in terms of cumulative impact and community cohesion.

Effect on Heritage Assets

25. The Council objects to the proposal in terms of harm to setting of the Grade I Listed St James' Church and harm to the Harvington Conservation Area.
26. S66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that, when considering whether to grant planning permission for development which affects a listed building or its setting, 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.
27. The church has a tall elegant tower and spire that is visible from the site and from lower Evesham Road including from the junction with Crest Hill. At present this latter view is across the existing open fields of the site and the church spire is appreciated in this generally open rural context, albeit the southern-most house at Bromley Close and the dwellings at the eastern end of Crest Hill are also in this view.
28. The development scheme deliberately seeks to retain this open view by including a 15° open landscaped corridor along the northern upper slope of the site. However, although the indicative visualisation⁶ shows the view of the church spire retained I am not certain this is accurate because two of the indicated large detached houses (Nos 5 and 6) would lie within this corridor and their roofs may partially obscure the church tower. Whilst the layout is only indicative it seems likely that some of the 67 dwellings would impinge into this visual corridor and that their roofs would be likely to partially obscure the church tower. If the development went ahead the church would also be framed by the new homes which would in my judgement unacceptably transform the rural setting of this view.
29. The church tower and spire are also prominent on the skyline from the site itself, particularly from its south eastern corner. The view of the church from this location would be obscured by the new dwellings. The rural open nature of the site is an important element of the church's setting, which would be severely compromised by the new dwellings.

⁶ Drawing No: 5307/VIS.02.APX

30. For these reasons I conclude that the development would fail to preserve the setting of the Grade I Listed church, which is an important aspect of its significance.
31. The Conservation Area encompasses the historic parts of the village, including the church and its recent eastwards extension to include Anchor Lane and the old station buildings as well as the south western corner of the site, which until recently contained the remnants of an old orchard. S72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that, in the exercise of planning powers in conservation areas, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.
32. The Council and Parish Council argue that the development would be built over that part of the Conservation Area which contained a historic orchard, which is typical of the Vale of Evesham landscape surrounding the village, and also that views in and out of the Conservation Area that contribute to its setting would be harmed by the proposed development, which would be suburban in form.
33. The Parish Council also argues that additional traffic to the development would pass through the Conservation Area and harm its character. However, cars would also use Station Road and Crest Hill and the volume of additional trips coming up Stratford Road through the heart of the Conservation Area is unlikely to significantly harm its character in my view.
34. There is no dispute between the parties that the apple trees on the site that were recently felled and removed were in a poor condition. Whilst the historic map of Harvington submitted at the Hearing⁷ shows the whole of the site as orchard land it is clear that the recently removed trees occupied only a very small part of the site and I see no reason why a new orchard should be planted here when new fruit trees would be planted in the landscaped belt next to Crest Hill.
35. Views in and out of the Conservation Area are severely constrained by the existing large high houses at Bromley Close, the proposed houses in the extant permission for nine houses on the western part of the site and by the change in ground levels between Anchor Lane and the site. However, views of the open fields of the site from the old railway bridge, which lies within the extended part of the Conservation Area, are prominent. The church is an important building within the Conservation Area and I have already indicated how its setting would be compromised.
36. Whilst in my view the impacts on the Conservation Area's setting are not severe, for the above reasons I conclude that the development would not preserve its rural setting, which I consider to be an important part of its significance as a designated heritage asset.
37. For the above reasons I conclude that the development would harm designated heritage assets in the village in that it would harm the setting of St James' Church and fail to preserve the character of the Conservation Area. This would be contrary to SWDP6. Whilst such harm is less than substantial in terms of NPPF paragraph 134 this does not mean that it amounts to a less than substantial planning objection, given the above statutory tests. Paragraph 134

⁷ Harvington 1901-05

requires me to weigh such harm against public benefits. The proposal would deliver additional homes including 40% of them as affordable. But this does not constitute a significant public benefit because it is contrary to the new Plan's development strategy, which suggests they could be accommodated on other more suitable locations in the District.

Landscape Impact

38. I was given a copy of the appellants' Landscape and Visual Impact Assessment (LVIA) at the Hearing by the Council, but this was prepared for an earlier version of the scheme which had a different layout. So whilst I have had general regard to it my assessment of landscape impact predominantly stems from the main parties' written representations and oral submissions at the Hearing, as well as my visits including to the viewpoint on Cleeve Hill on the south side of the Avon valley.
39. In terms of landscape character the site lies within the Village Farmlands with Orchards Landscape Type (LT) and the more localised Harvington Village Farmlands with Orchards Landscape Description Unit (LDU Ref VE26b) of the Worcestershire Landscape Character Assessment (WLCA). Key characteristics for the LT and LDU include extensive orchards on south-facing slopes and a nucleated settlement pattern. The landscape guidelines are to retain these characteristics.
40. I have already set out my position in relation to the remnant orchard on the site and consider that its replacement with orchard trees on the northern part of the site as proposed in the indicative layout would be acceptable in terms of impact on the Conservation Area and this also applies to the wider landscape.
41. However, I agree with the Council that Harvington possesses a strongly nucleated form, despite its twentieth century extension on the north side of the B4088. The main part of the village is defined by Village Street, Church Street and Station Road and the residential development off these roads. In contrast although there is some ribbon development on the north side of Crest Hill this is at odds with the generally nucleated form of the village. Whilst this development can be seen from the principal viewpoint on Cleeve Hill these houses are mainly bungalows and it is the main nucleated form of the village centred on the church that draws the eye. This is amply shown on the last three photographs of the LVIA
42. Whilst vegetation would obscure the full visual impact of the proposed homes from this viewpoint there is no doubt that they would extend the village eastwards and down the sloping land towards the river valley eroding the character of the main nucleated settlement form of Harvington. It would be possible to see this from Cleeve Hill especially in winter. As previously indicated, the development would also be prominent in views from the old railway bridge, which is a public footpath.
43. In conclusion, whilst it would be unreasonable and unrealistic to insist that the site be replanted with an orchard the proposed development would not sufficiently take into account the existing nucleated form of the village and would therefore not comply with Policy SWDP25, which requires such account to be taken of the WLCA.

Flooding Issues

44. The Council's objections as set out in its sixth refusal reason related to the location of the SUDS attenuation ponds in Flood Zones (FZ) 2 and 3. This was on the basis of the Environment Agency's letter of 4 September 2015, which stated that the ponds should be located in FZ1 because they would not be able to 'attenuate' surface water run-off from the site if they were inundated with flood water.
45. However, it was explained by the appellants' drainage witness at the Hearing and previously in his response to the Council's appeal statement that the ponds are landscape features rather than attenuation ponds. Surface runoff water would be held in attenuation tanks within FZ1 and flow control devices would ensure that the discharge from these tanks into the ponds would be no more than the existing greenfield runoff rate⁸. On this basis the Council's drainage engineer agreed that there were no objections to the scheme in terms of flood risk, given that the Environment Agency has no other objections subject to various conditions.
46. For these reasons I conclude that the development would not exacerbate the risk of flooding in the area.

Conclusion

47. The proposed development would harm the setting of the Grade 1 Listed St James' church, fail to preserve the character of the Harvington Conservation Area and be at odds with the nucleated settlement pattern of the village harming its landscape character. Whilst the scheme would deliver 67 new homes including 40% affordable units these could be delivered in other locations that accord with the development strategy in the very recently adopted SWDP, which the proposal would fail to comply with. There are no other material considerations to indicate that the proposal should be determined other than in accordance with the development plan.
48. I have acknowledged the planning obligations proposed by the appellants in the S106. But since these are necessary to mitigate the effects of the development in accordance with Regulation 122 of the Community Infrastructure Levy Regulations 2010, they cannot be considered to be significant benefits of the scheme and it is unnecessary for me to consider them any further.
49. For the reasons given above I conclude that the appeal should be dismissed.

Nick Fagan

INSPECTOR

⁸ As shown on Wellan drawings 13-251 53 Rev B and 54 Rev B

APPEARANCES

FOR THE APPELLANT:

Ian Graves	Zyda Law
Tobias Paul	Zyda Law
Steve Taylor	Appellant
Dr David Hickie	Heritage Matters
John Kerry	Wellan Ltd

FOR THE LOCAL PLANNING AUTHORITY:

Emma Ridley	Planning Case Officer
Rebecca Burrige	Planning Policy Officer
Eileen Marshall	Landscape Officer
Ben Lawless	Conservation Officer
Andrew Fell	Drainage Officer

INTERESTED PERSONS:

Christopher Haynes	on behalf of Harvington Parish Council and Chairman of Neighbourhood Plan Steering Group
Michael Barbour	Campaign to Protect Harvington Village From Larger Scale Development

DOCUMENTS SUBMITTED AT THE HEARING

- H1 Extracts from Worcestershire Landscape Character Assessment
- H2 Map analysis of Harvington's settlement pattern
- H3 Letter from Planning Minister to PINS CEO regarding landscape character in planning decisions, 27 March 2015
- H4 Landscape Description Unit VE26b characteristics
- H5 Map of Harvington settlement boundary from SWDP with site in pink
- H6 Map of Harvington 1901-1905
- H7 History of the draft TPO on the remnant orchard on the site by Council Tree Officer, 11 July 2016
- H8 Appeal decision APP/H180/W/15/3135664
- H9 Notification letter of time date and location of Hearing, 24 June 2016
- H10 LVIA, 23 September 2014
- H11 Representation from Michael Barbour, Campaign to Protect Harvington Village From Larger Scale Development
- H12 Full Adopted version of SWDP February 2016
- H13 Folder representation by Christopher Haynes on behalf of Harvington Parish Council

Richborough Estates