



Appeal Decision

Site visit made on 22 May 2014

by Jane Miles BA (Hons) DipTP MRTPI

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

Decision date: 09 June 2014

Appeal Ref: APP/H1840/A/14/2213555

Harvington Lane, Norton, Worcestershire WR11 4TN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr C Haines against the decision of Wychavon District Council.
 - The application ref: W/13/01777/PN, dated 16 August 2013, was refused by notice dated 10 December 2013.
 - The development proposed is construction of 16 dwellings (including 6 social housing units and 2 fixed equity housing units), 6 B1 business units and public open space.
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Decision

1. *The appeal is allowed and planning permission is granted for construction of 16 dwellings (including 6 social housing units and 2 fixed equity housing units), 6 B1 business units and public open space at Harvington Lane, Norton, Worcestershire WR11 4TN, in accordance with the terms of the application, ref: W/13/01777/PN, dated 16 August 2013, subject to the conditions listed at the end of this decision.*

Preliminary Matter

2. A Section 106 agreement (s106) has been completed, containing planning obligations relating to affordable housing and providing for contributions towards a range of local facilities and infrastructure. As the District and County Councils are parties to the agreement, I take it that they are content with its provisions and that it satisfactorily addresses the Council's¹ second refusal reason. Even so, I refer to it again in the reasoning which follows.

Reasons

Background and main issue

3. The Council's first refusal reason includes a statement to the effect that it had evidence to demonstrate a five-year housing land supply. However the Council has indicated in its appeal statement that it wishes to withdraw the paragraph containing that statement. This stems mainly from the Inspector's Interim Stage 1 conclusions in relation to the emerging South Worcestershire Development Plan (SWDP) and the consequent uncertainty about the District's housing land supply position. It follows also that the SDWP is not yet at a stage where it can be given significant weight.

¹ Throughout the remainder of this decision, 'the Council' is the District Council

4. Bearing in mind the above matters, the **main issue** in this case is whether the proposal would accord with development plan and national policy relating to development in rural areas, primarily in relation to housing land supply and sustainability.

Development plan and national policy, housing land supply and sustainability

5. The relevant development plan is currently the Wychavon District Local Plan (LP) adopted in 2006. Saved LP Policy GD1 sets out a settlement hierarchy for the location of new development, primarily within defined settlement boundaries. New housing on the appeal site would be outside any such boundary. It would therefore be in the countryside for planning policy purposes and so would not accord with Policy GD1.
6. However, where a five-year supply of deliverable housing sites cannot be demonstrated, local plan policies for the supply of housing² cannot be considered up-to-date and paragraphs 14, 47 and 49 of the *National Planning Policy Framework* are engaged: permission should be granted unless 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. Given the continuing uncertainties surrounding housing land supply, it is appropriate to undertake this balancing exercise in relation to proposals such as this one, for development outside settlement boundaries defined in the LP and/or in locations that do not accord with the strategy in the emerging SWDP.
7. Notwithstanding the current status of the emerging SWDP, the approach of seeking to allocate most new housing to locations where there is good access to local services and a choice of transport modes is a well-established means of working towards achieving sustainable development. It accords with current guidance in the *Framework*. As part of this approach villages have been categorised in the emerging SWDP, with Category 1, 2 and 3 villages being the most sustainable in terms of local service provision.
8. Although outside any settlement boundary, the appeal site adjoins the eastern side of a cluster of dwellings that is very close to the junction of Harvington Lane and the B4088 (Evesham Road), which is the northernmost extent of the Norton village boundary. Evesham Road links the villages of Norton and Harvington (to the north), and the latter village can also be reached by travelling in the opposite direction along Harvington Lane. The village of Norton (with Lenchwick) is classified as a single Category 4B settlement, but Harvington is a Category 2 village with a range of local services and facilities including a shop and primary school.
9. These categories in the emerging SWDP are a useful starting point but, having regard to policy guidance in the *Framework*, it seems to me that access to public transport and the site's location relative to nearby settlements and facilities are particularly important in assessing the sustainability or otherwise of the appeal proposal. 'Norton and Lenchwick' comprises three discrete areas and the northernmost in particular, where the church and pub/restaurant are located, is a short walk from the appeal site. Footways alongside both Evesham Road and Harvington Lane provide some scope for walking further afield, but are of variable quality.

² Which includes LP Policy GD1 insofar as it limits the supply of new housing

10. Cycling is likely to be a more attractive option for travel from the appeal site to the two nearby villages and also to Evesham, one of the District's three main towns. The town centre is roughly three miles away and, according to the appellant, a cycle ride of some fourteen minutes. I note the Council's comments about speed limits, street lighting and, if travelling to Evesham, the need to negotiate a busy roundabout. Nonetheless, and in the absence of any substantive case that the routes are unduly hazardous, I find the two villages and Evesham to be reasonably accessible by cycle from the appeal site. Moreover, this mode of transport may become more attractive in future, given the prospect of a Lenchwick-Norton-Harvington cycle route³.
11. Norton and Lenchwick, Harvington and Evesham are also accessible by the bus service which runs past the site as part of a route between Evesham and Stratford-on-Avon. Services run from early morning to early evening, six days a week, at a frequency of two per hour for much of the day, together with three buses in each direction on Sundays. This is described as 'good' public transport in the 'Policy Comment' from officers at the application stage. The appellant's information about bus journey times⁴ further supports this view, with which I agree. Thus I find that, despite its location outside a settlement boundary, the appeal site is by no means remote or isolated: nearby settlements with a range of services and facilities are readily accessible by bus and cycle as well as by short car journeys.
12. The scope to travel by modes other than the car is also significant in relation to the 'business' element of the proposal. The proposed combination of residential and business units would provide opportunities for people to both live and work on the site, reducing some of their overall need to travel. It could also offer employment opportunities for people living in the wider locality who could travel by the more sustainable modes of cycle or bus. Moreover the Council's suggested conditions include a requirement for 'welcome packs' for future occupiers of the development, which would help to promote travel by more sustainable modes than private cars.
13. With regard to the proposed housing, paragraph 55 of the *Framework* advises that, to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Although the appeal site and the adjacent cluster of dwellings are outside the village boundary (as defined in the development plan), they are very close to it (and responses to the application suggest residents of adjacent dwellings consider themselves to be part of the village of Norton). In any event, given the site's proximity and accessibility to Norton and Harvington, I find it reasonable to conclude that residential occupiers of the proposed housing could help to support services and facilities in Norton and Harvington. Thus the proposal would help to maintain the vitality of those communities, thereby according in general terms with paragraph 55.
14. With regard to the business units, Paragraph 28 of the *Framework* promotes the sustainable growth and expansion of all types of business and enterprise in rural areas, including through well-designed new buildings. Given my findings

³ This is mentioned in the Council's justification for the various contributions sought towards local infrastructure and facilities, in the event of the appeal being allowed

⁴ For example, the bus travel time from Norton to the centre of Evesham is said to be ten minutes (and none of the appellant's estimated travel times are disputed by the Council)

about the site's accessibility, and the officers' conclusion⁵ that the proposal would 'represent high quality, interesting and innovative design' (with which I agree), I find that the proposal would also accord with paragraph 28.

15. The appeal site does adjoin, on its western boundary, the Norton Conservation Area and there is a Grade II listed building beyond the adjacent Norton Farm Cottages. However the overall design concept and layout broadly reflects a farmyard-type grouping and style of buildings, with elements of varying size, height and form, which I find entirely appropriate adjacent to the existing development in its rural setting. The proposal also includes an area of open space, including a new pond, which would create a visual break between the proposed development and the heritage assets. I find therefore that the scheme would enhance rather than harm the setting of the Conservation Area and at least preserve the listed building's setting.
16. Overall the combination of scale, design and layout would create a high quality and attractive scheme, reflecting the existing and mainly linear nature of development in and adjacent to Norton. In addition, it would incorporate various measures to promote sustainability in terms of matters such as sustainable drainage, energy and water use and, subject to compliance with recommendations in the ecological appraisal, improved biodiversity.
17. In summary, the proposal would not accord with development plan policy relating to the location of new housing development, but nor would it conflict to any significant degree with more recent policy guidance in the *Framework*. It would be beneficial in helping to boost the supply of housing, including affordable housing, and in providing live/work and local employment opportunities. These are benefits that weigh heavily in favour of the proposal. The particular combination of factors in this case leads me to conclude that the proposal's adverse effects in terms of a less sustainable location⁶ and some increase in travel by private car would not be so great as to significantly and demonstrably outweigh its benefits.

Section 106 agreement

18. The need for affordable housing in the locality is questioned by some local residents, but the policy background and information about local needs, set out in the officers' report to the Planning Committee, addresses these points. I am satisfied that the obligations in the s106 relating to provisions for the proposed affordable housing are reasonable and necessary to make the development acceptable in planning terms.
19. The terms of the s106 have been agreed between the appellant, the Council and the County Council but I must still consider whether each of the planning obligations meets the statutory tests in Regulation 122 of the *Community Infrastructure Levy Regulations 2010*. The Council has provided a statement which, amongst other things, sets out relevant development plan policies, which are broadly consistent with the *Framework*. Its justification for the transport-related contributions refers to the cycle route (mentioned in paragraph 10 above) and to improvements to the nearby bus stop.

⁵ That is, the conclusion to the assessment of design, in the report to the Planning Committee

⁶ That is, outside a settlement boundary as defined in the development plan

20. Given also the policy emphasis on the use of sustainable transport modes, and the linkage between such improvements and the appeal proposal, I am satisfied the transport-related obligations meet the statutory tests. As there is a similarly direct linkage between the proposal and the obligation relating to recycling facilities, and given Waste Core Strategy Policy WCS17, I find that this obligation also satisfies the tests.
21. The Council's justification explains the need to improve various sports and open space facilities and how the contributions would be used. Again therefore I am satisfied the statutory tests are met. The obligations relating to the layout and future management/maintenance of the area of public open space proposed on the appeal site are clearly necessary to make this integral part of the development acceptable in planning terms.
22. With regard to education however there is no substantive information from the Council or County Council about the capacity of local schools, in terms of whether the threshold⁷ for requiring a contribution is met. Without such information I am unable to assess whether this obligation is directly related to the development and necessary to make it acceptable in planning terms. With regard to public art, the recently issued *Planning Practice Guidance* gives this as an example of an obligation which is 'clearly not necessary to make a development acceptable in planning terms'. I have not therefore taken either of these two obligations into account.

Other matters and overall conclusions

23. Various concerns have been expressed by local residents, some of which I have already addressed in the preceding paragraphs. Most notable of the remainder are concerns about the scale of the proposed development and its impacts in terms of increased traffic and highway safety. However the Highway Authority raises no objections to the scheme, and a condition would be imposed to ensure that the new access from the highway meets the necessary standards. I therefore find no compelling grounds to conclude that the proposal would compromise highway safety.
24. The development would result in the loss of part of a commercial orchard of low ecological value, but the area involved is relatively small. Moreover, in assessing the proposal I have had regard to the particular combination of circumstances that apply to this case, which would seem unlikely to be repeated exactly elsewhere. Thus allowing this proposal would not set any precedent for larger scale development of orchard land.
25. Neither these nor any other matters raised are so significant as to alter the balance of my conclusions on the first main issue. Overall therefore I conclude there are no individual or cumulative adverse impacts of sufficient weight to clearly and demonstrably outweigh the proposal's benefits. I therefore find no conflict with policy guidance in the *Framework* and further conclude that permission should be granted subject to conditions.

⁷ In the Council's supplementary planning guidance documents

Conditions

26. A condition specifying the approved plans⁸ (some of which include details of matters such as drainage proposals and energy efficiency measures) is needed for the avoidance of doubt and in the interests of proper planning. Requiring a programme of archaeological work at the outset is justified to ensure the site's archaeological potential is properly investigated (although a simpler condition than that suggested by the Council would suffice).
27. Conditions relating to surface water drainage and access are necessary to ensure the development can be adequately drained and accessed. The provision of access, parking and turning facilities is needed in the interests of highway safety but, given the particular nature of the proposed development, I find a condition expressly precluding external storage unnecessary on highway grounds. Given the scale of the development it is reasonable to require a construction method statement, in the interests of highway safety and to protect amenities at nearby dwellings.
28. A landscaping scheme (including matters relating to existing trees and hedging, and boundary treatments) and samples of external materials for the various buildings are needed in the interests of visual amenity. To accord with various principles of sustainable development, it is reasonable and necessary to impose conditions relating to 'welcome packs'; measures recommended in the submitted ecological appraisal; provision of cycle parking. With regard to the latter, the plans include a cycle store for some residential units and there would be adequate space for cycle parking in the gardens, garages or carports of the other dwellings. Thus conditions are needed only to ensure provision of the communal cycle store and cycle parking for the B1 office units.
29. The conditions which follow are based on those suggested by the Council, with some amendments for reasons already explained and/or in the interests of precision and clarity. In addition, bearing in mind the importance of the B1 office units as an integral part of the scheme and its overall sustainability, and given also their close proximity and relationships with the dwellings, a condition relating to their use is essential to make the development acceptable.
30. Planning permission is therefore granted subject to the following conditions:
- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the approved plans, drawing nos. 13-021-01 to 13-021-20 inclusive; 13-021-04A; 1558-1.
 - 3) No development shall take place until a programme of archaeological work has been implemented in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority.
 - 4) Notwithstanding the scheme for surface water drainage shown on drawing no. 13-021-020 and described in the Flood Risk Assessment and Water Management Statement (dated 30 August 2013), no development shall take place until the results of a ground condition survey and

⁸ With the exception of drawing no. 13-021-021, which simply identifies facilities and service in the vicinity of the appeal site

associated calculations to demonstrate the feasibility of the scheme have been submitted to and approved in writing by the local planning authority, together with a programme for implementation and, where appropriate, details of arrangements for future maintenance. The scheme for surface water drainage shall be implemented as approved.

- 5) No development shall take place until a landscaping scheme has been submitted to and approved in writing by the local planning authority. The scheme shall include:
- a) a survey plan showing the accurate position, canopy spread and species of existing trees and hedging on or immediately adjacent to the site, with details of their condition and of any proposals for pruning, felling or alteration of ground levels around them, together with details of any necessary measures for the protection during the course of development of trees and hedging to be retained;
 - b) a plan showing the new pond and new tree, hedge and shrub planting and grassed areas (to include tree and hedge planting of native species along the site boundaries), together with details of species, sizes at planting, numbers/densities and a specification for cultivation to establish the new planting;
 - c) details of the location, type, design and materials of any walls, fences or similar boundary treatments;
 - d) an implementation programme all landscaping works;
 - e) a landscape management plan, including management responsibilities and maintenance schedules for all landscape areas, other than those which will be within privately owned, domestic curtilages.

The landscaping scheme shall be implemented as approved. Any trees or shrubs which, within a period of five years of planting, die, are removed or become seriously diseased or damaged, shall be replaced in the next planting season with others of similar size and species, unless otherwise approved in writing by the local planning authority.

- 6) No development shall take place until details of the proposed vehicular access to Harvington Lane have been submitted to and approved in writing by the local planning authority. The details shall include the engineering design and specification together with details of the existing culvert and improvements to the existing footway fronting the site. The vehicular access and associated works shall be completed in accordance with the approved details before any other development begins.

The visibility splays indicated on drawing no. 13-021-016 shall be retained thereafter and kept free of obstruction: nothing shall be planted, erected or allowed to grow above 0.6m in height within them.

- 7) Notwithstanding details shown on the approved plans, no development shall take place until details of the specification, drainage and surfacing of footpaths within the site and of all areas to be used by vehicles (whether for access, turning or parking) have been submitted to and approved in writing by the local planning authority. The footpath and vehicular access routes, vehicle turning and parking facilities shall be provided in accordance with the approved plans and details before the development hereby permitted is brought into use. Such facilities shall be retained

- thereafter and kept available for access, turning and/or parking purposes at all times.
- 8) No development shall take place until a Construction Method Statement has been submitted to and approved in writing by the local planning authority. The Statement shall include details of parking and manoeuvring facilities for operatives, deliveries and visitors to the site; loading, unloading and storage of plant and materials; the location of any site office(s); working hours for construction operations on the site and deliveries to it. Development shall be carried out at all times in accordance with the approved Statement.
 - 9) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
 - 10) Throughout the development period (including any site clearance works) works shall be carried out to accord with the safeguards set out in Section 5.1 of the Preliminary Ecological Appraisal by Jackie Underhill (dated April 2013). None of the development hereby permitted shall be occupied until the habitat enhancements in Section 5.2 of the Appraisal have been carried out.
 - 11) None of the dwellings numbered 6 to 13 inclusive on the approved layout plan shall be occupied until the communal cycle store has been provided in accordance with the approved plans and made available for use. The communal cycle store shall be retained thereafter for that purpose.
 - 12) No Class B1 office unit hereby permitted shall be occupied until secure parking for two cycles for that unit has been provided and made available for use. The secure cycle parking shall be retained thereafter for that purpose.
 - 13) None of the development hereby permitted shall be occupied until a 'welcome pack' to promote sustainable travel by future occupiers of the development has been submitted to and approved in writing by the local planning authority. No individual dwelling or B1 unit shall be brought into use until its occupiers have been provided with a welcome pack as so approved.
 - 14) Each building identified as a 'B1 office unit' on the approved layout plan shall be used only for uses falling within Class B1(a) of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification) and for no other purpose (including any other purpose in Class B1).

Jane Miles

INSPECTOR