



Appeal Decision

Site visit made on 25 September 2014

by **Paul Dignan MSc PhD**

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

Decision date: 13 October 2014

Appeal Ref: **APP/J1860/A/14/2214098**

Broomhall Grange, Norton Road, Broomhall, Worcester, WR5 2PD.

- 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 Mrs S Dunning against the decision of Malvern Hills District Council.
 - The application Ref. 13/00710/OUT, dated 4 June 2013, was refused by notice dated 21 October 2013.
 - The development proposed is: Outline application (access only) for residential development land adjacent to Little Treasures day nursery.
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Decision

1. The appeal is dismissed.

Preliminary matters

2. The application was made in outline, with all matters reserved aside from access. The plan showing the vehicular access to the site, which would be from Norton Road, also shows a layout for a development of 37 houses. I have treated this as indicative.
3. Amongst the Council's reasons for refusal to grant planning permission was the absence of a mechanism to provide affordable housing and secure financial contributions towards open space, education facilities, and transport. The appellant has submitted a signed and sealed Unilateral Undertaking (UU) dated 10 April 2014, made under section 106 of the Town and Country Planning Act 1990 which seeks to address these matters. I comment on this UU below.

Background and policy

4. The appeal site comprises just over 1ha of mostly agricultural land on the western side of Norton Road. The village of Norton commences on the opposite side of Norton Road. For planning policy purposes the site is in the countryside. Saved Policy DS14 of the Malvern Hills District Local Plan 2006 (LP) precludes new housing in the countryside save for countryside purposes, affordable housing on exception sites, or replacement, extension or conversion of existing buildings. The proposed development is contrary to this policy. Planning decisions must be made in accordance with the development plan unless material considerations indicate otherwise.
5. The National Planning Policy Framework (NPPF) and the subsequent Planning Practice Guidance (PPG) are material considerations which can be accorded substantial weight. Amongst other things, the NPPF aims, within the context of

a presumption in favour of sustainable development, to boost significantly the supply of housing. It requires local planning authorities to identify and update annually a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements. If the local planning authority cannot demonstrate a five year supply of deliverable housing sites, relevant policies for the supply of housing should not be considered as up date. Subject to a proviso which does not apply here, where relevant policies are not up to date, paragraph 14 of the NPPF provides that planning permission for sustainable development should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

Main issues

6. LP Policy DS14 is a relevant policy for the supply of housing, and the Council accepts that it cannot demonstrate a five year supply of deliverable housing sites. Against this background I consider the main issues in this case to be whether the proposal would amount to sustainable development, and if so, whether there are any adverse impacts which would significantly and demonstrably outweigh the benefits.
7. In the background to this proposal is the progress of the emerging South Worcestershire Development Plan (SWDP). The SWDP is a combined strategic and detailed policies and site allocations Development Plan Document (DPD) being prepared by Malvern Hills, Wychavon and Worcester Councils. It is currently at an advanced stage, albeit delayed somewhat by the examining Inspector's interim conclusion that the local authorities concerned should adopt higher housing need figures than initially proposed. As it stands the appeal site forms a component part of a proposed allocation for a major urban extension. SWDP Policy 45(1) would see the development of the land between Norton Road and the A38 to the west, and south of the A4440, to provide approximately 20 ha of employment land and around 2450 dwellings, along with improvements to the road network. Two outline applications¹ are currently under consideration which are broadly in line with SWDP Policy 45(1), proposing to provide up to 2459 dwellings along with associated infrastructure and employment land. Neither includes the appeal site.
8. SWDP Policy 45(1) includes an illustrative masterplan showing a proposed split of land uses considered appropriate to achieving an overall balanced and sustainable development. Most of the appeal site is shown as part of Local Green Infrastructure, part of a strip of largely undeveloped land to be retained along the western side of Norton road that is designed to maintain separation between the new and existing communities. The focus on outstanding proposed modifications to the SWDP is on increasing housing numbers, and it is reasonable in the circumstances to expect that the SWDP Policy 45(1) allocation, or a modified version, will come forward in time. I therefore give it some weight. Where relevant I consider the implications of SWDP Policy 45(1) for the proposal.

Reasons

9. Paragraph 14 of the NPPF only applies to development that is sustainable. Sustainable development has economic, social and environmental dimensions,

¹ Council Refs. 13/00656/OUT and 13/01617/OUT

all of which are mutually dependent. It involves seeking positive improvement in the quality of the built, natural and historic environment, as well as people's quality of life. This involves, amongst other things, improving the conditions in which people live, work, travel and take leisure, and promoting good design. The Council has objected to the proposal on highway safety grounds, the adequacy of information on the sustainability of the location and accessibility for all users, and design grounds, all of which bear on the overall sustainability of the development proposed.

Highway safety

10. The proposed development would have a single vehicular access onto Norton Road. This would be some 30m from the access onto Norton Road from Regiment Close, a private residential street of some 16-17 dwellings on the opposite side of the road, and about 70m from a roundabout to the south. The speed limit changes at about the proposed access, from 40 mph to the north to 30 mph to the south.
11. Norton Road is a classified road which serves as a distributor road between Norton Village and the A4440, the heavily trafficked Southern Link Road. Traffic flows at peak periods are considered by the Highway Authority to be high. In these circumstances the Highway Authority seeks junction spacings commensurate with a distributor road, that is 100m on the same side and 50m on the opposite side, to avoid conflicting traffic movements which could adversely affect road safety and the free flow of traffic. These expectations are set out in its Highways Design Guide.
12. The appellant argues that the Regiment Close access should not be considered as an access to which the standard applies. I disagree. The access is likely to generate some 96 to 128 vehicle movements per day. With the proposed development generating about twice that, it seems to me that there is likely to be simultaneous traffic movements at the two accesses reasonably frequently, which would be likely to adversely affect highway safety and the free flow of traffic. It is also argued that the Highways Design Guide criteria for minor accesses should apply. These have no restriction on opposite junction spacing. Again, I disagree. The proposed access is a junction with a well used classified road, hence it is reasonable to apply the local distributor roads design criteria.
13. The Council has also indicated that it considers the proposed highway visibility from the proposed access to the north, where the speed limit is 40mph, to be inadequate. The plans show a 2.4m by 73m visibility splay, whereas a 2.4m by 100m splay is recommended by Manual for Streets 2 unless a speed survey indicates that a lower standard would be justified. No such survey has been undertaken. The appellant points out that she has in any case control of sufficient road frontage to provide a visibility splay of 2.4m by 100m measured to 1m into the carriageway. From the plans I am not confident that this can be achieved, but in view of the applicant's assertion I acknowledge that the provision of adequate highway visibility could be the subject of a 'Grampian' type condition.
14. This would not, however, overcome the substandard junction spacing. The likely adverse impact on highway safety and traffic flow would conflict with LP Policy DS3, which expects development proposals to, amongst other things, ensure that the local road network is capable of safely accommodating the type and scale of traffic likely to be generated.

Location

15. The site is not within or adjacent to a serviced settlement, there is a limited bus service with nearest stops more than 250m away, pedestrian connectivity between the site and bus stops and other community facilities involves crossing the busy Norton Road, and there is no footpath on the appeal site side of Norton Road. LP Policy DS3 requires access to, and movement within, the development to be safe, secure, convenient and attractive to pedestrians, cyclists and people with disabilities. The appellant has suggested that any concerns about accessibility could be addressed at a later stage through the imposition of appropriate conditions. However, "access" is for consideration at this stage, and in relation to reserved matters it means the accessibility to and within the site for vehicles, cycles and pedestrians in terms of the positioning and treatment of access and circulation routes and how these fit into the surrounding access network². The appellant has relied upon the approval of a nearby development as demonstrating that the appeal site is a sustainable location. However, that development is in another local authority district, and has a different relationship to facilities than the appeal site. On the basis of the evidence provided I am unable to conclude that the appeal site is sustainably located in terms of access. I conclude therefore that it is contrary to LP Policy DS3 in this respect.

Design

16. Amongst the Council's reasons for refusal is that the proposal does not adequately explain how the site could satisfactorily accommodate 37 dwellings. The submitted indicative layout does not appear to provide a level of on-site public open space that would accord with the Council's adopted Open Space Supplementary Planning Document, and it considers that the inward looking scheme would not integrate visually with the surrounding area. In my view the indicative scheme would appear discordant in the landscape as it stands. Even allowing for reserved matters which could improve the design of the scheme, the amount of housing would inevitably result in the development being perceived as an urban intrusion into the countryside, which I consider would harm the character and appearance of the area. The quantum of development is not a reserved matter, it is clearly detailed in the application itself and is integral to the principle of development that the application and appeal seeks to establish. As it stands I am not satisfied that the appeal site could satisfactorily accommodate the amount of housing proposed, having regard to the NPPF aims of securing high quality design that takes account of local character, including recognising the intrinsic character and beauty of the countryside. I conclude accordingly that the proposal would not accord with LP Policies DS3 and QL1, which seek to ensure that new development integrates well with its surroundings.

SWDP Policy 45(1)

17. Should the proposed urban extension come forward the appeal site would be far more favourably related to the new community and its facilities, and it would be far more likely that the quantum of development would not be quite so out of place. There would be no harm to the character and beauty of the countryside. Having said that, traffic levels along Norton Road would be likely to be far higher, and the intrusion into the Local Green Infrastructure along

² The Town and Country Planning (Development Management Procedure) (England) Order 2010 - Article 2(1)

Norton Road would frustrate its intention of providing separation between the communities, and could well unfavourably alter the balance between open land and development that underlies the sustainability of the proposed urban extension. On balance I consider that the impact of SWDP Policy 45(1) would be neutral at best, and accordingly it provides no weight in favour of the appeal proposal.

Conclusion on the main issue

18. Sustainable development involves seeking positive improvement in the quality of the built, natural and historic environment, as well as people's quality of life. In view of the shortcomings I have identified in terms of highway safety, accessibility and design, I consider that the proposal does not constitute sustainable development as described by the NPPF. The presumption in favour of sustainable development, and the NPPF paragraph 14 tests, do not therefore apply. I have found that the proposal conflicts with the development plan, and there are not material considerations, including the provision of additional affordable and market housing, sufficient to outweigh this. It follows that the appeal must be dismissed.

The Unilateral Undertaking

19. The section 106 UU contains provision for 40% of the dwellings to be secured as affordable housing, and for the payment of a number of contributions toward local services and infrastructure, in the event that planning permission were granted. Since I have found the proposed development unacceptable for other reasons, it is unnecessary to consider these further: at best, they would simply enable compliance with certain development plan policies, or provide mitigation for an otherwise unacceptable impact of the proposed development.

Overall Conclusion

20. Having considered all other matters raised, I conclude that the appeal should be dismissed.

Paul Dignan

INSPECTOR