



Appeal Decision

Site visit made on 4 July 2018

by **David Nicholson** RIBA IHBC

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

Decision date: 02 August 2018

Appeal Ref: APP/J1860/W/17/3187943

Land off Stourport Road and the B4197, Great Witley, Worcestershire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (T&CPA) against a refusal to grant planning permission.
 - The appeal is made by Marsten Developments (Worcester) Limited, Keepmoat and Elgar Properties (Worcester) Limited against the decision of Malvern Hills District Council.
 - The application Ref. 17/00093/FUL, dated 16 December 2016, was refused by notice dated 26 May 2017.
 - The development proposed is: Erection of 70 no. affordable and 105 no. market dwellings, formation of new accesses onto Stourport Road (the A451 road) and the B4197 road, public open space, dedication of land for bowling green, surface and foul water management system and landscaping.
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Decision

1. The appeal is dismissed.

Procedural matters

2. Further to the Council's refusal, the Appellants submitted a Land Classification Assessment which concludes that the land does not constitute 'Best and Most Versatile' agricultural land. Following this, the Council withdrew its reason for refusal (RfR) No.6.
3. The Council implemented the Community Infrastructure Levy on 5 June 2017. This covers such matters as education, transport, recreation and health. The Appellants submitted a Unilateral Undertaking under section 106 of the T&CPA to provide 40% affordable housing and to provide a Travel Plan Contribution in response to RfR No.7.
4. The scheme follows the refusal of application no. 16/00013/FUL, proposing *Erection of 44 no. affordable and 131 no. market dwellings* which was refused on 18 April 2016.
5. The revised National Planning Policy Framework (NPPF) was published on 24 July 2018. I subsequently gave the main parties the opportunity to comment on this and have taken their responses into account.

Main Issues

6. The main issues are the effects of the proposals on:
 - (a) the character and appearance of the area, with regard to the provisions of the development plan and its policies for the open countryside;

- (b) the government's expectations with regard to good design;
- (c) the landscape and the settlement character;
- (d) highway safety;
- (e) the requirement to preserve the setting to the Grade II* Registered Park and Garden at Witley Court, and the settings of other designated heritage assets;
- (f) flooding.

Reasons

Character and appearance

7. Great Witley is centred on a triangle formed by the A451 Stourport Road to the north, the A443 Worcester Road along the south-west side, and the B4197 to the east. Within this triangle lie two fields, a primary school, surgery and village hall, a public open space and housing developments concentrated towards the west side. The appeal site comprises these two fields and extends to approximately 8.5 hectares (ha). It is physically well contained by the three roads and has a footpath running diagonally across the eastern field. Existing residential development includes a small, recently completed, housing scheme at Glendower Way and other small to medium sized estates.
8. With regard to the appearance of the site, I saw that the west field slopes markedly while the east field slopes more gently and that both are surrounded by trees and hedges creating an attractive landscape which makes a positive contribution to the village. As well as open space, the proposed scheme would provide 175 houses on a net developable area of approximately 5.1ha.
9. The South Worcestershire Development Plan (SWDP) was adopted on 25 February 2016. Although the site would not be isolated, as referred to in NPPF§79, as it lies adjacent to the village, it is outside the SWDP Category 1 Settlement of Great Witley. It therefore relates to land beyond any development boundary and so is defined by Policy SWDP 2C as being in the open countryside where development will be strictly controlled and limited to specific circumstances none of which applies here. Windfall proposals (Policy 2B) are to be assessed against settlement hierarchy but even for Category 1 villages are to be within defined development boundaries. Policy SWDP 2F expects proposals to be of an appropriate scale and type with regard to the size of the settlement. The site has no SWDP designation other than being beyond, but immediately adjacent to, the settlement of Great Witley.
10. The Council has updated its annual calculation of housing land supply (HLS) to April 2017. It argued that this demonstrates a HLS of over 6.5 years including a buffer of 5%. It cited a recent appeal¹ in which the Inspector found that: *The local planning authority can demonstrate a five-year supply of deliverable housing land and as such the tilted balance within paragraph 14 [as was] of the Framework is not engaged. Both appeal proposals would be contrary to DP Policy SWDP2 due to the location of the site outside of the development boundary. Both would conflict with the development plan by reason of their adverse effects on the countryside and landscape setting of the village.*

¹ Ref: APP/J1860/W/15/3139770 & Ref: APP/J1860/W/17/3177665, Land at Martley Road, Lower Broadheath

11. The Appellants have not contested the Council's claim to a 5 year HLS but drew my attention to the fact that the land had been promoted through the Strategic Housing Land Availability Assessment. It referred to another nearby appeal² where the Inspector agreed that there was a 5 year HLS, but found that the lack of any harm or conflict with the development plan meant that the appeal was allowed, noting that it was (and is - NPPF§59) government policy to boost significantly the supply of housing land. The Council countered that housing development on that site was included in the SWDP housing supply list, unlike the appeal site.
12. Given that the site is beyond any defined development boundary, I find that the proposals would not accord with Policy SWDP 2C. I have therefore considered whether there are material considerations which would outweigh this conflict, and any other harm, before reaching my overall conclusion.

Good design

13. Older ribbon development along each of Great Witley's triangle of roads has been intensified within the western side of the triangle by infill development since the mid-20th century. The majority of these houses are 1-2 storeys in height, and built of red brick with clay tiled roofs, although there are some exceptions. The Design and Access Statement (DAS) sets out the context by reference to local facilities, access, property type, height, materials and boundary treatments³. Existing ribbon development follows several forms, sizes and styles. While there is no definitive vernacular, and most of the housing is domestic and functional, I saw that many of the older houses, such as those shown on the 1885 map, exhibit the local characteristics of having steep roofs, deep eaves and verges, and some sort of intricate detailing. The 20th century estates are generally less interesting or typical of the area although I did note that the more recent houses, including Glendower Way, have had at least some regard to local styles, albeit that local residents claimed that they did not follow the required development principles.
14. The proposed layout would be based on a vehicular access at each end. There would be an estate road from each of these to separate areas of houses arranged around them; these would be linked by a footpath. Access to the fields would result in the loss of significant parts of the roadside hedges. There would be further pedestrian connections with the village including an existing footpath and proposed areas of public open space. As well as houses, there would be a bowling green and an attenuation pond to one side of the footpath. The DAS identifies the natural landscape features and proposed buffer screening which would retain and enhance existing wildlife corridors, the enhancement of footpath and cycle network across the site, and the large areas of public open space. It highlights that some of the housing would adjoin existing residential developments.
15. The elevational drawings show dwellings which would be simple and relatively similar to each other. They would be of brick with tiled roofs but otherwise they would demonstrate few of the characteristics of the older houses in the local area. The roof pitches would be quite shallow, the verges and eaves mostly tight to the walls and there would be little in the way of depth or detail. There would be a lot of repetition in style and materials and so limited variety.

² Ref: APP/J1860/W/16/3144810 Land to the west of Apostles Oak Cottage, Apostles Oak, Abberley

³ DAS pp 4-7

The street elevation shows that many of the houses would be detached, but closely-packed, and this would be repeated across the site.

16. I find nothing wrong with house designs which aim to be vernacular in the sense of modest and unpretentious. However, some of the proposed dwellings would not only be bland but also quite big, extending into the roofs. Moreover, I can find nothing cohesive about the design as a whole that would elevate it above the ordinary. There would be no significant architectural set pieces or real focus to this relatively large scheme. Instead of bold terraces or proudly detached houses, the dwellings would be closely packed, with rather meaninglessly small gaps in between, and little to integrate them as a coherent whole. While the scheme would enhance boundary planting and introduce new structural planting to break up the roofscape, there would otherwise be no strong new landscape features which might otherwise justify a very simple and restrained approach to the individual elevations. Indeed, there would be a loss of hedgerow as a result of the new accesses.
17. Overall, I have some sympathy with local residents who have described the proposals as mundane, monotonous and mediocre with housing designs that have the appearance of a modern urban estate that can be found in any city conurbation, rather than being in keeping with Great Witley, and which would not fit into the village streetscapes. I find that there would be much repetition in terms of detailing and materials, and blank façades with little elaboration, creating an overly large and homogenous form of development without any coherent pattern. However, there would be little focus to this and nothing in the layout to establish a strong identity.
18. As a result the design would tend to fall between two stools: being neither an imitation of the historic street scenes around the village which could reflect local character and traditions, with houses of a variety of ages and styles; nor bring innovation with a new entity and its own distinctive character and sense of place. Either way, I conclude that the proposals would not amount to good design. The scheme would fall well short of the expectations of SWDP Policy 21 that all development be of a high design quality which would integrate effectively with its surroundings in terms of form and function, reinforce local distinctiveness and conserve, and where appropriate, enhance cultural and heritage assets and their settings, acknowledging that new and innovative designs will be encouraged and supported where they enhance the overall quality of the built environment. The proposals would conflict with NPPF§124 which advises that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. It would satisfy few of the NPPF§127 criteria but would amount to poor design under NPPF§130.
19. I acknowledge that there would be good pedestrian links although there would be no vehicular permeability between the access points. The new open spaces could be pleasant, and there would be some natural surveillance over public areas, but the village already has play areas and open space. Moreover, the benefit of seeing the current open spaces, from the footpaths and the roads, would be lost. The Appellants argued that the scheme included a review of the earlier application, and new pre-application discussions, taking account of the previous RfRs. Be that as it may, I have considered the scheme afresh and on its own merits. I accept that the scheme would be at an appropriate density in accordance with NPPF§117, have a suitable mix of tenure, and would achieve

reasonable separating distances from neighbouring houses. However, these benefits would not overcome my fundamental design objections or the conflict with policy.

Landscape

20. At a local level, the character of the wider area has been identified as Wooded Estatelands. While this may be true, the triangle of three roads rather separates the appeal site and adjacent developments from the wider area and reduces the relevance of this landscape type. The scheme would also be at odds with the historic settlement pattern of the village but, given that there are a number of estates within the western half of the triangle of roads, this has been breached many times. The site has no landscape designation. The Landscape and Visual Impact Assessment sets out the mitigation strategy which includes retaining hedgerows and reinstating trees previously noted along historic maps. The County Council Landscape Officer raised no objection.
21. For the above reasons, the effect of the scheme on the landscape value, as opposed to its appearance, would not be significant. The proposals would not conflict with SWDP Policy 2F, which expects proposals to be of an appropriate scale and type with regard to the local landscape character; and Policy 25 which requires schemes to take account of Landscape Character Assessments and guidelines, integrate with the character of the landscape setting, conserve any important features and, where appropriate, enhance landscape quality. Although no doubt seen as a valued countryside location by local residents, in my judgement the site would not be a *valued landscape* under NPPF§170.

Highway safety

22. The vehicular access points would be onto the B4197 and the Stourport Road. The transport assessment records that a speed survey was used to calculate the required visibility splay lines in accordance with the criteria in Manual for Streets 2. The Highway Authority (HA) has assessed this, and set out its view of the deficiency, each of which would be of the order of 10%. The HA has also criticised the refuse collection tracking details, the condition of the immediate bus stops, the quality of the cycle route to Stourport, and the extent of detail of internal roads and parking.
23. I have noted the deep concerns of local residents with regard to the speed of existing traffic on the surrounding roads and the lack of safe cycling routes. However, in my assessment the slight shortcoming in forward visibility at the access points, and the lack of new public transport opportunities, would not amount to *severe* when measured against the test in NPPF§109 and would not, by themselves, justify dismissal. If I were minded to allow the appeal, other highway concerns, including cycle routes, could be addressed by way of conditions or funded through the Community Infrastructure Levy.

Heritage assets

24. Witley Court is a Grade I listed house which was partly destroyed by fire in 1937 and not rebuilt. Attached to the main house is a Grade I listed church with an important Baroque interior. The garden is a Grade II* registered park and garden, which just clips the appeal site, originating from a 17th-century deer park. In the early 19th century it was improved by Nash, Repton and Nesfield, then the country's most prestigious garden designer. The garden

- extends out from Witley Court, coming relatively close to the village, and the park designation clips the south-east corner of the appeal site. The main avenues running through the park are lined with trees.
25. Other designated assets considered in the Heritage Statement, and potentially affected, include the Old Rectory, the Redmarley farmhouse, Robin's Croft cottage and The Dairy and its adjoining buildings, all Grade II listed. However, compared with Witley Court, the extent of their settings is minimal. Abberley Clock Tower, stands over 1km away to the north-west of the village.
 26. In its representations, Historic England (HE) argued that the proposed development would be within the setting of Witley Park and would cause considerable harm to it and other heritage assets. There was no disagreement that the development would not physically affect any heritage asset; the objections concerned their settings. I acknowledge that intervisibility need not be the only criterion to be considered with regard to setting. HE has argued that Witley Park was designed in such a way that the visitor was intended to see beyond its boundary and that the eastern field is an important part of its setting. However, nothing in the representations suggests that in this appeal any of the surrounding lands offer anything to Witley Park's setting beyond the limits of visibility. I have therefore limited my consideration to intervisibility.
 27. With regard to Witley Park, I do not agree that the planned experience was to be totally limited to within the avenues of trees. While these trees are undoubtedly important I do not accept that they were intended to restrict the views out. Rather, they did and do add drama to the route to the house but the views over the surrounding countryside are also of some value as an agricultural backdrop to the avenues. Nevertheless, from the evidence before me, and my site visit along the uneven track from Rosery Lodge to Witley Court, I found nothing to suggest that views out from the fields beyond the avenue are important or that there is any intervisibility between the areas within the Park which are of significance and the appeal site.
 28. The Grade II listed Rosery Lodge (formerly Stourport Lodge) was added to the north-western entrance to Witley Park (near the junction of the A443 and the B4197) in about 1860. Other than the lodges, the list descriptions make little reference to the areas of park and garden between Witley Court and Great Witley. The Appellants have illustrated the zone of visibility with Rosery Lodge. While this includes a significant proportion of the appeal site, much of this area would remain undeveloped. Abberley Clock Tower, a Grade II* listed campanile built in 1883-4, was probably designed to maximise its visibility in the rolling countryside. Most of the appeal site is within its setting, as is much of the surrounding area, but this has already been altered by recent development and the scheme would have little additional effect on the existing setting.
 29. I therefore conclude on this issue that the scheme would preserve the setting to the registered park and garden. It would comply with NPPF§192 by taking account of the desirability of sustaining and enhancing the significance of heritage assets; NPPF§193, which requires great weight to be given to the significance of designated heritage assets; and NPPF§194, which advises that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.

Flooding

30. The site generally falls from west to east. The flood mapping from the Environment Agency website shows no fluvial flooding apparent within the site. The updated Flood Risk Assessment (FRA) is based on a drainage strategy drawing. This details a proposed attenuation storage tank and pond to make adequate space for the storage of surface water generated under critical extreme storm events. The FRA concludes that the site is not affected by fluvial flooding and, on the basis of the drainage strategy, focuses on the disposal of surface water and assesses other possible flood risk to or from the development. It asserts that appropriate sustainable drainage systems will be included within the development to improve the quality of surface water runoff.
31. However, the Council claimed that the FRA also appears to confirm that infiltration testing has not been conducted. It argued that this should have been completed on site and, if viable, full use should then be made of this option for surface water disposal. If not viable, then the drainage strategy proposed should be implemented on site. The Officer's Report highlighted that the Lead Local Flood Authority required more information and that conditions would need to be applied. The Council's suggested conditions include four requirements for further details including those covering management and maintenance.
32. I have noted concerns over existing flooding, but the appropriate requirement for the scheme is to ensure flooding is not made worse rather than cure existing problems. While it would have been helpful for the appropriate details to have been submitted sooner, I am satisfied that, subject to the suggested conditions, the scheme would comply with policies SWDP 28 & 29 which set requirements for proposals in order to minimise the impacts of flood risk, including criteria for FRAs, and require sustainable drainage schemes; and NPPF§165 which expects major developments to incorporate sustainable drainage systems.

Benefits

33. Regardless of the 5 year HLS, as highlighted by some local residents in support of the application, there is a lack of housing at affordable prices. Additional houses would accommodate more residents to support existing services within Great Witley and NPPF§72 recognises that the supply of large numbers of new homes can often be best achieved through planning for larger scale development, such as significant extensions to existing villages. The affordable housing would be a significant further benefit, which would exceed the minimum requirement in NPPF§64, but, absent any detailed negotiations, would be no more than required to comply with Policy SWDP 15. More residents, and the construction itself, would contribute to the local economy of a Category 1 village. Public open space and community facilities would be further benefits, albeit that some of the space would be primarily as an attenuation pond to alleviate flooding and may have limited recreational use. Subject to a condition enforcing its provision, the proposed bowling green might also be of some benefit.

Planning balance

34. As above, the scheme would not comply with Policy SWDP 2C which, in accordance with NPPF§21, is identified as part of the development strategy for

the district. The benefits of additional housing, and affordable housing, in a district which can demonstrate a 5 year HLS attract only moderate weight. In the absence of the *tilted balance* in NPPF§11, to be applied where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites⁴, there are no other significant material considerations that would outweigh the conflict with the development plan. Moreover, notwithstanding the limited harm with regard to landscape value, highway safety, heritage assets and flooding, the balance of the above benefits against the harm to the character and appearance of the area through the loss of an attractive landscape, which would be replaced by a poor design when judged against the NPPF, also points towards dismissal.

35. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

David Nicholson

INSPECTOR

⁴ See footnote 7