



Appeal By: Hayfield Homes
Construction Ltd

Location: Land at (Os 7500 5952),
Berrow Green Road, Martley, WR6
6PE

Proposal: Outline planning permission
for up to 55 dwellings (with means of
access to the site be considered at this
stage and all other matters reserved)

PINS Ref: APP/J1860/W/24/3348743

LPA Ref: M/23/01711/OUT

**Town and Country Planning
Act 1990**

Section 78 Appeal

COUNCIL STATEMENT OF CASE

DATE: 11/09/2024



CONTENTS

- 1. Introduction**
- 2. Site and its surroundings**
- 3. Proposed development**
- 4. Planning policy**
- 5. Case for the Council**
- 6. Planning obligations and conditions**
- 7. Concluding Remarks**

Introduction

- 1.1 This Statement of Case ('Statement') is prepared in response to an appeal submitted by Hayfield Homes Construction Ltd ('Appellant') against the decision of Malvern Hills District Council ('Council') to refuse an application for: *'Outline planning permission for up to 55 dwellings (with means of access to the site be considered at this stage and all other matters reserved)*.
- 1.2 The application M/23/01711/OUT was validated on the 15 January 2024 and in accordance with the Council's scheme of delegation a delegated decision to refuse was issued, dated 11 April 2024. There were several outstanding matters that became reasons for refusal that have subsequently been resolved, namely, refusal reason 2 (BMV agricultural land), refusal reason 3 (Highways) and refusal reason 4 (Drainage) and this is recorded within the Statement of Common Ground.
- 1.3 The LPA had not been aware of the negotiations between Appellant and Highway Authority that saw the completion and signing of a statement of common ground before receipt of the Appellant's email dated 19 August 2024.
- 1.4 The Appellant and LLFA had, with the knowledge of the LPA, been negotiating the drainage concerns and the LLFA confirmed (22 August 2024) in their email their acceptance of the drainage detail and that a statement of common ground would be forthcoming.
- 1.5 The Appellant submitted an Agricultural Quality Report that reports on field work carried out in support of the appeal. This offers further detail about the land and the Council accepts the findings.
- 1.6 The council's Decision Notice was sent to the Inspectorate by the appellant. The refusal reasons that remain to be considered include the following:
 - Refusal Reason 1: Landscape Character, Heritage Setting, and Location
 - Refusal Reason 5: Legal Obligations
- 1.3 A copy of the Officer's Delegated report has been forwarded to the Inspectorate with the Questionnaire.
- 1.4 The Officer Delegated report provides detail in respect of the history and nature of the site and its surroundings; representations received in response to the public consultation; the policy context and the planning considerations considered material to the proposal. It is not the intent to necessarily repeat that information other than to possibly amplify the most relevant matters.
- 1.5 The appeal will be determined following the public inquiry procedure. Accordingly, this Statement is prepared pursuant to the Town and Country Planning Appeals (Determination by Inspectors) (Inquiries Procedure) (England) Rules 2000, as amended.
- 1.7 The Council will submit proofs of evidence in connection with the main issues referenced in this Statement, specifically: matters relating to landscape character, heritage setting and location, and planning policy / balance.
- 1.8 At the time of drafting this statement (11/09/2024) we await the Appellant's response to the proposals made by the council to agree the statement of common ground. It is understood that notwithstanding the original draft statement of common ground, where this agrees the Housing requirement and plan delivery and affordable Housing

that the Appellant's statement of case concludes otherwise, by raising matters of further investigation, including calling an expert witness to dispute the level of housing shortfall et al. Mindful of this the council would need to provide their own witnesses to cover such matters, notwithstanding that there is no dispute regarding the engagement of the housing shortfall (paragraph 11d of the Framework).

The site and its surroundings

- 2.1. The site consists of undeveloped agricultural land, being a large single field (arable), an area of allotments and a wooded tree belt along the site's northern boundary which itself is defined by the adjacent roadway. The developable area measures 3.86 hectares.
- 2.2. The land is located to the west of the village of Martley, on the western side of the B4137, across from the recreational grounds and the location of the village hall.
- 2.3. For the purposes of the South Worcestershire Development Plan Martley is identified as a category 1 rural settlement (SWDP 2 and Annex D). The appeal site is situated approximately 140m distant from the Martley development boundary.
- 2.4. The appeal site is an unallocated greenfield site. Further, it has not been part of the Call for Sites process and is unallocated in the South Worcestershire Development Plan Review (currently at examination). As such, and despite the Reg 19 reps, and the SHELAA the land is not recorded as having had any interest put forward at any point during the local plan process.
- 2.5. The appeal site is considered to make a positive contribution to the intrinsic character and beauty of the countryside because of its open undeveloped rural character. The boundary treatments include low hedgerow and some trees with an unbroken road-side hedgerow to the B4197.
- 2.6. At the site's north-eastern boundary there is a single dwelling house: Longstone Cottage (grade 2 listed). There are two or three dwellings that are considered non-designated heritage assets at the site's south-eastern corner. The site's southern boundary abuts the burial ground, with agricultural land to the west.
- 2.7. A Public Right of Way (PRoW) (footpath 698C) crosses the site that connects to others within the wider location. The site's presence is widely noticed through the well-used recreational grounds and the Memorial Hall.
- 2.8. The local schools include Primary and Secondary schools approximately 1.1km distant that given their location serve the wider rural hinterland and nearby communities.

Proposed Development

- 3.1. The application, the subject of the appeal, seeks: Outline planning permission for up to 55 dwellings (with means of access to the site be considered at this stage and all other matters reserved).
- 3.2. The illustrative plans submitted with the appeal seek to demonstrate how the development can be brought forward if the appeal is allowed.
- 3.3. Notwithstanding the proposal's outline nature, it is accompanied by a range of detailed assessments and technical evidence that permit judgements to be made as to the likely

impacts (and consequent effects) of the nature of development proposed to be brought forward.

3.4. 40% of the homes would be affordable that in considering 55 homes would be 22 affordable homes.

Planning policy

4.1. Relevant to this appeal the statutory development plan includes the following:

- South Worcestershire Development Plan ('SWDP', 2016)
- The Martley, Knightwick & Doddenham Neighbourhood Plan, Made January 2018.
- The Martley, Knightwick and Doddenham Neighbourhood Development Plan 2016-2030 Material revision for consultation (Regulation 14) Summer 2024. *Its consultation concludes on 26 October 2024.*

4.2. Within the SWDP, the policies considered most important for the determination of this appeal fall within those referenced within the Reasons for Refusal:

SWDP 1: Overarching Sustainable Development Principles
SWDP 2: Development Strategy and Settlement Hierarchy
SWDP 3: Employment, Housing and Retail Provision Requirement and Delivery
SWDP 4 Moving around South Worcestershire
SWDP 5: Green Infrastructure
SWDP 6: Historic Environment
SWDP 7: Infrastructure
SWDP 13: Effective Use of Land
SWDP 14: Market Housing Mix
SWDP 15: Meeting Affordable Housing Needs
SWDP 21: Design
SWDP 22: Biodiversity and Geodiversity
SWDP 24: Management of the Historic Environment
SWDP 25: Landscape Character
SWDP 27: Renewable and Low Carbon Energy
SWDP 28 Management of Flood Risk
SWDP 29 Sustainable Drainage Systems
SWDP 39: Provision for Green Space and Outdoor Community Uses in New Development
SWDP 62: Implementation

4.3. The Martley, Knightwick and Doddenham Neighbourhood Plan, Made January 2018.

Policy MKD1 Landscape Design Principles
Policy MKD3 Building Design Principles
Policy MKD4 Maintaining the Settlement Pattern in Martley, Knightwick and Doddenham
Policy MKD6 Outside Development Boundary
Policy MKD7 Housing Mix.
Policy MKD10 Promoting Health and Wellbeing.

4.4. The Worcestershire Landscape Character Assessment Supplementary Guidance (2012) is a material consideration for decision-taking purposes and relevant to this appeal is the landscape character type: Principal Timbered Farmlands.

- 4.5. The National Planning Policy Framework (the 'Framework'), revised December 2023, sets out the Government's planning policies for England and how they should be applied; it is a material consideration for decision-taking purposes though it makes clear that it cannot displace the statutory primacy of the development plan.
- 4.6. The Framework is supported and complemented by the national Planning Practice Guidance ('PPG'). The guidance provided by the PPG is advice on procedure and elaboration of Framework policies rather than explicit additional policy and is an online reference as a living document. The Council considers that it too is an important material consideration alongside the Framework.
- 4.7. The South Worcestershire Development Plan review is currently at examination. The draft policies therefore currently attract only limited weight.
- 4.8. The Council will seek to demonstrate that the most important policies for the determination of the appeal continue to attract relevant weight, being compatible with the relevant policy objectives of the Framework.
- 4.9. The Appellant in their Statement of Case seeks to contest the council's housing supply and affordable housing position. In consequence the council will need to prepare for this with their own witnesses. Among other matters, the Council will examine in its evidence:
- The Council's Housing Land Supply (4YHLS) position, and in light of this, the SWDP's development strategy & settlement hierarchy (SWDP 2), and
 - the appropriate weighting to be ascribed to the most important policies for the planning balance.
- 4.10. Further, the Council will demonstrate that the appeal proposal is not an acceptable development, taking account of the proposal's location.
- 4.11. Paragraph 11d of the Framework, having been engaged, says: that for the decision-taking this means:

where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.*

The Case for the Council

- 5.1. Under Section 38(6) of the Planning and Compulsory Procedure Act 2004 the planning balance must be made as to (a) whether allowing the appeal accords with the statutory development plan taken as a whole, and (b) whether other material considerations (including the Framework) indicate that a decision should be taken other than that which accords with the development plan. It is necessary to consider and address the statutory duty in relation to the designated heritage asset. The Framework provides specific guidance on how this duty may be discharged.

Refusal Reason 1:

- 5.2. The land on which the development is proposed is currently open countryside outside of the Martley development boundary. Development Boundaries traditionally are often tightly drawn to control land supply, taking into account the character of the settlement in terms of its size and form. The purpose of the development boundaries is to direct development to the most sustainable locations, prevent encroachment into the open countryside, thereby protecting both countryside and settlement characters, and informing where windfall development would generally be acceptable in accordance with the development and hierarchy strategy (SWDP2). Development in the proposed location would undermine a plan-led approach and be contrary to strategic policy aims and objectives. The character of this land is rural, and harm will be caused by the development of homes in this rural location. The extent of this harm will be demonstrated by the Council and reference will be made to impact on views, locally identified significant views and local guidance and assessments in respect of landscape character.
- 5.3. The Council will demonstrate that sporadic development in the countryside has a detrimental impact on the landscape character of rural settlements and the countryside. New housing developments in rural settings should be designed and sited with particular care and sensitivity, and not erode rural character through encroachment into the countryside.
- 5.4. The Council will demonstrate that the proposed development will have an unacceptable impact on significant pieces of green infrastructure, including long-established native hedgerows.
- 5.5. It will be demonstrated that the proposed road and associated infrastructure, including footways would lead to the creation of a suburban environment, to the detriment of existing landscape character.
- 5.6. The Council will demonstrate that the proposed development in this location would also harm the setting of a designated heritage asset as well as non-designated heritage assets, resulting in part from the cumulative effects from more recent developments to be brought forward in the locality.
- 5.7. The appeal site's location lies on the other side of the highway from the village's recreation grounds, itself alongside the community's Memorial Hall that between them see significant use and footfall and awareness of the connectivity and visual links of the rural location and the surrounds that would be the same for those attending the village cemetery as well as those at leisure in walking the public rights of way, while the future occupants are further removed from the services and facilities in the village, such as the schools, village shop and bus stops.
- 5.8. The Council will provide evidence highlighting the clear conflict between the appeal scheme and the policies most important for its determination.
- 5.9. The harm caused to Landscape Character, the setting of heritage assets and the appeal site's location is considered would attract significant weight against the appeal scheme.
- 5.10. The Council considers that the appeal should be determined in accordance with the development plan whose most applicable policies would be considered to continue to attract appropriate weight and that the harms outweigh the benefits.
- 5.11. Accordingly, the Inspector will be invited to dismiss the appeal.

Planning Obligations and Conditions

Refusal Reason 5

- 6.1. A Section 106 Agreement should be prepared and completed in the event that the appeal is allowed, which delivers a range of planning obligations necessary, fair and directly related to the development to make the development acceptable in planning terms. The Council is willing to work with the Appellant to agree such terms, which would include the following:
- Affordable Housing Provision
 - Highway Improvements and Infrastructure
 - Healthcare
 - Management and Maintenance Company
 - Community Infrastructure Off Site Public Open Space Developer Contribution
 - S.106 Monitoring Fees
- 6.2. The Council will seek to reach agreement with the Appellant in respect of suitable planning conditions, recommended to be imposed were the appeal to be allowed.
- 6.3. The Council will provide a CIL compliance statement.

Concluding Remarks

- 7.1. The Council's position is that it is unable to demonstrate a housing land supply in excess of four years and that the most important policies for the determination of this appeal would in consequence not be up to date.
- 7.2. The shortfall is not considered to be marginal when seen in context with the government objective to boost the housing supply.
- 7.3. It is the Council's position that the proposed development is contrary to the development plan and would result in harm as identified in the reason for refusal. The remaining refusal reason concerns the need to secure a section 106 legal agreement.
- 7.4. Evidence will be provided on each of the planning matters to demonstrate the nature of the harm caused and an assessment of that in planning terms against the policies of the development plan and other material planning considerations.
- 7.5. The Council will explain that the appeal development does not comply with the development plan as a whole and that there are no material considerations which indicate that planning permission should otherwise be granted.
- 7.6. On that basis the Inspector will be invited to dismiss the appeal.
- 7.7. The Council reserves the right to make reference to:
- The relevant policies of the Development Plan;
 - HLS position statements;
 - Planning Obligations SPD
 - Affordable Housing SPD
 - The National Planning Policy Framework;
 - Planning Practice Guidance;
 - Worcestershire County Council's Landscape Character Assessment Supplementary Guidance;
 - Relevant planning decisions, case law, legislation and other documents relevant to the appeal;
 - Any issue that might arise in light of the Appellant's evidence.