



Appeal Decision

Inquiry held on 12 and 13 July 2022

Site visit made on 13 July 2022

by **J F Powis BA(Hons), MSc, MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 15th November 2022

Appeal Ref: APP/J1860/W/22/3295623

Land at (OS 8349 4918), Old Hills, Callow End, Worcestershire

- 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 Tamsin Almeida on behalf of Terra against the decision of Malvern Hills District Council.
 - The application Ref 21/01719/OUT, dated 14 September 2021, was refused by notice dated 21 January 2022.
 - The development proposed is 30 dwellings (outline application with all matters reserved except for access).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application form did not provide a site address, instead giving grid reference points, and described the appeal site as '*greenfield land at Old Hills, Callow End*'. For clarity, the site address set out above is taken from the decision notice.
3. The application to which this appeal relates was made in outline, with all matters except for access reserved for future consideration. While the Site Access Plan (drawing number CTP-20-1110 SK01-B) would form part of the permission, the remainder of the submitted plans are treated as being for illustrative purposes only.
4. On 11 July 2022, the Council accepted that it could not demonstrate a five year supply of deliverable housing sites. It is common ground that there is a housing land supply of between 4.39¹ and 4.61² years, which equates to a shortfall of between 809.8³ and 157⁴ dwellings for the five year period. The agreed position was recorded in an addendum to the topic specific Statement of Common Ground on five year housing land supply⁵. In light of the agreement on these matters, it was not necessary for the Inquiry to consider housing land supply matters in detail. I return to this later in my decision.
5. After the Inquiry closed, and by prior agreement, I received a completed section 106 agreement containing planning obligations relating to affordable

¹ If the calculation is performed jointly for the South Worcestershire Councils

² If the calculation is performed individually for Malvern Hills district

³ If calculated jointly for the South Worcestershire Councils

⁴ If calculated for Malvern Hills district individually

⁵ Statement of Common Ground: Five Year Housing Land Supply Addendum (CD4.10)

housing, healthcare, highways, education, and public open space contributions. This is considered in my reasoning below.

Main Issues

6. The main issues in this appeal are:

- the effect of the proposed development on the landscape character and appearance of the area; and,
- whether or not the appeal site is suitable for housing, having regard to its location.

Reasons

Effect on the Landscape Character and Appearance of the Area

Site Context and Proposed Development

7. The appeal site is an irregular shaped parcel of land to the south of the village of Callow End. The appeal scheme comprises 30 residential dwellings together with vehicular access from Upton Road (B4424). As an outline application, matters of layout and landscaping are reserved. However, an illustrative layout plan⁶ demonstrates how the site could accommodate the housing and internal circulation roads within a wider scheme of landscaping and public open space. A Landscape and Visual Impact Assessment (LVIA1) accompanied the application⁷ and was supplemented by a second LVIA (LVIA2, dated 24 June 2022) prior to the Inquiry opening.
8. The site is not subject to any statutory landscape designations and no substantive evidence has been presented to indicate that it falls within a valued landscape in the sense of paragraph 174(a) of the National Planning Policy Framework ('the Framework'). Nonetheless, it is evident from the submissions of local people that the site is valued by those who live in the area for its scenic quality and contribution to the undeveloped character of the natural environment surrounding Callow End.
9. The appeal site sits within a landscape type defined within the Worcestershire Landscape Character Assessment Supplementary Guidance (August 2012)⁸ as 'Principal Timbered Farmlands'. This landscape type is described as an ancient landscape with a dispersed settlement pattern. It is a rolling lowland landscape with occasional steep sided hills and a small scale, wooded and agricultural appearance. Hedgerow field boundaries and ancient woodlands are primary characteristics of the landscape type.
10. The appeal site sits in a gently sloping landscape and is bounded to the east and west by mature mixed hedgerows formed of hawthorn, field maple, ash and elm. Evidence of grazing along the lower sections of hedgerows indicates its recent use as pasture. A mature oak tree occupies the south-east of the site and the woodland at Old Hills is a short distance beyond the site to the south-west. Overall, the site and its surroundings exhibit a number of important characteristics of the landscape character type. While the site is located relatively close to areas identified as other landscape character types⁹,

⁶ Illustrative Layout Plan Ref: 3750-04D (CD1.3)

⁷ Landscape and Visual Assessment, August 2021 (CD1.22)

⁸ CD7.3

⁹ Figure 11 of Worcestershire Landscape Character Assessment Supplementary Guidance, August 2012 (CD7.3)

I did not see evidence on my site visit to indicate that the characteristics of the Principal Timbered Farmlands landscape type are notably weaker around Callow End than is typical in other areas covered by this classification.

11. In its more local landscape context, the northern boundary of the appeal site adjoins the rear gardens of houses along Upper Ferry Lane, connecting it to the built form of the village. However, the site is surrounded to the east, south and west by open fields with which it has both a visual and physical affiliation, not least due to the Public Right of Way that runs through the site and south toward Old Hills. The site feels tranquil and has a natural, undeveloped appearance. Despite adjoining the edge of the village, the site itself has a strong rural character. In this sense, it contributes to the locally distinctive character of Callow End as a village sitting within a high quality rural landscape.

Effects on Landscape Character: Location

12. The proposed development would lead to a fundamental change in the character of the site itself, from rural, natural and tranquil to suburban, landscaped and populated. There would be vehicular movements into and within the site and the introduction of lighting, noise and other paraphernalia associated with domestic habitation.
13. At the scale of the Principal Timbered Farmlands landscape character area, the appeal development would represent the loss of an area, albeit modest in size, of countryside containing features characteristic of the landscape type.
14. At the scale of the site and its immediate setting, the introduction of 30 dwellings with associated development in this location would significantly diminish the current landscape value of the site. Whilst the rising topography to the south helps to visually contain the site to some degree, this does not reduce its intrinsic landscape value as a component of the natural environment. Nor does it alter the physical connection between the site and surrounding countryside via the Public Right of Way that runs north-south along the eastern boundary. Furthermore, the site would become less visually contained as a result of opening a substantial section of the western boundary to provide the vehicular access from Upton Road.
15. The proposed development would not extend the built form of Callow End in an easterly or westerly direction. However, it would extend the built form of the village in a southerly direction, breaching the settlement envelope created by existing development to the east and west. Thirty additional houses would represent an extension of significant scale relative to the modest size of the village. This encroachment of new development into a previously natural and undeveloped area would irreversibly undermine the established local landscape character.
16. Callow End has a close-knit pattern of development at its core, which becomes more loose-knit moving out of the village centre. The southern fringe of the village along Upper Ferry Lane and Bush Lane is characterised by principally detached dwellings in generous plots, signalling the point of transition to the countryside beyond. The application was made in outline, with matters relating to layout reserved for subsequent approval. However, it is clear from the illustrative layout plan and my visit that accommodating 30 dwellings on the appeal site, together with the necessary roads, landscaping and open space,

would necessitate a pattern of development that is materially higher in density than that on the southern side of Upper Ferry Lane and Bush Lane. As a result, even after the implementation of a landscaping scheme, the appeal development would form an abrupt end to the built form of the village, failing to respond appropriately to the settlement pattern of Callow End. This would undermine local distinctiveness.

17. Having regard to all of these considerations, I find that due to its location, the proposed development would result in significant harm to the local landscape character and moderate harm to the wider Principal Timbered Farmlands landscape character area. The appeal development would provide in excess of 40% of the site area as public open space as well as a landscaping scheme to help mitigate the effects on landscape character. However, these commitments would not ultimately avoid the loss of features of importance to the landscape character and therefore would not mitigate the harm that I have found above.

Effects on Landscape Character: Access Arrangement

18. Vehicular access to the appeal site would be via a new access road from Upton Road¹⁰. To facilitate this, approximately 55 metres¹¹ of the existing roadside hedgerow along the western boundary of the site would need to be removed along with a medium-sized, low quality common ash tree¹². To allow for the necessary visibility splays, the removed hedgerow would be replaced either side of the new access road at a greater set back from Upton Road.
19. The hedgerow to be removed is formed of a mix of hawthorn, ash and elm, with an estimated height of between 9 metres and 2 metres and a lateral spread of 3 metres. The appellant assesses the hedgerow to be in fair structural condition and good physiological condition¹³, and I saw nothing on my visit to contradict this assessment. The age of the hedgerow is unclear, with the anecdotal evidence of local people suggesting it has been in place for more than 100 years and the appellant's survey indicating a shorter timescale. In any event, its size, coverage and condition indicate that it is in a mature state.
20. In local landscape terms, the hedgerow performs the function of enclosing the appeal site. I saw on my visit that due to its height, spread and density, the hedgerow creates a strong sense of separation between the site and Upton Road. This contributes to the tranquil nature of the site.
21. The hedgerow runs along Upton Road from the edge of Callow End into the woodland to the south of the site. Together with the hedgerow on the opposite side of the road, it forms a tunnel-like effect upon entrance to the village from the south. Emerging out of the 'tunnel' there is a sense of arrival in the village. In this way, the hedgerow plays an important role in marking the change in character from rural to village, and vice versa. Its verdant presence roots the village in its rural setting and as such makes a significant contribution to local distinctiveness.
22. Hedgerow field boundaries are also primary characteristics of the Principal Timbered Farmlands landscape type. For this reason, combined with its fair to

¹⁰ Proposed Access Arrangement Plan Ref: CTP-20-1110 SK01-B (CD1.5) details the proposed access arrangement

¹¹ Paragraph 34 of ID15

¹² As shown on the Arboricultural Impact Assessment and Tree Protection Plan (CD1.11)

¹³ Arboricultural Survey (CD1.14)

good condition, the hedgerow serves a function as a representative feature of the wider landscape type. A substantial section of the hedgerow would be removed as a result of the proposed development and therefore its function in local and wider landscape terms would be undermined. The 'tunnel' effect at the entrance to the village would be substantially reduced and a landscape feature that contributes to local distinctiveness would be lost. This would be to the detriment of local character.

23. The particular species composition of the hedgerow makes it susceptible to disease, most notably ash dieback and Dutch elm disease, which could affect its lifespan. I note submissions that, in the absence of proactive management, the general vitality, structure and appearance of the hedge is likely to deteriorate over the coming years. However, remedial action through active management could be taken in the short term to improve this prognosis. The potential decline of the hedgerow should it be left unmanaged is not sufficient to justify its removal.
24. The replacement sections of hedgerow should begin to be established within 3 to 5 years, but it would be approximately 10 years before the new hedgerow provided reasonable cover and longer still for it to reach a height and density comparable to the current hedgerow. It is accepted that these timescales must be considered in the context of a design life for the proposed dwellings of over 100 years. Even when established, the new hedgerow would be unlikely to create the same sense of arrival into the village due to its increased setback from Upton Road and the enduring presence of the new access road.
25. Moreover, the new vehicular access point would permanently open up views into and across the appeal site, diminishing the sense of enclosure that helps to create the intimate quality of the local and wider landscape character.
26. Taken together, the effects of the proposed access arrangement in terms of both removal of the hedgerow and the permanent new access road would have an influence on landscape character at both the local scale and at the wider level of the Principal Timbered Farmlands landscape type area. The effects would be long term in duration.
27. The commitments to planting new hedgerow along the south-western boundary of the site in place of existing post and wire fence and to new planting to strengthen existing sections of weak, sparse hedgerow in the southern part of the site do not address the effects on the western site boundary. The creation of an area of public open space in the western part of the site would assist in setting the new buildings back from Upton Road but would do little to overcome the reduced sense of enclosure as a result of the hedgerow removal and creation of the new access road.
28. Consequently, I find that there would be significant harm to the local landscape and wider Principal Timbered Farmlands character area as a result of the access arrangement for the proposed development.

Visual Effects

29. Many of the matters at the heart of consideration of the landscape effects of the proposed development are also relevant to the consideration of its visual effects. There was some difference between the locations and numbering of

viewpoints used for the assessment of visual effects in the appellant's LVIA1¹⁴ and LVIA2¹⁵. At the Inquiry, the appellant accepted that all of the viewpoints, not just those used in LVIA2, were relevant to its assessment of visual effects.

30. Although there was not agreement about the magnitude of the visual effects, the main parties agreed that the visual receptors most likely to be affected by the proposed development would be:
- users of the Public Right of Way (footpath PW-698) that crosses the site; and,
 - users of Upton Road (B4424), looking toward and into the site.
31. Footpath PW-698 runs north to south along the eastern boundary of the site, linking Callow End with the elevated area of common land known as Old Hills to the south-west and the River Severn to the south-east. It currently affords uninterrupted views across the appeal site and to surrounding fields. Whilst the site is viewed against the backdrop of the village when travelling north along the footpath, the appeal site is nonetheless experienced as part of the wider rural area surrounding Callow End.
32. The appellant acknowledged that the proposed development would have a 'major adverse' effect on views looking west from the footpath in the north-eastern corner of the site on completion of construction, but concluded that this would reduce to a 'moderate to major adverse' effect after 15 years, by which time landscaping mitigation would have become established¹⁶. The appellant also found there to be a 'major to moderate adverse' effect on views looking north-west from the footpath in the south-eastern corner of the site¹⁷, but argued at the Inquiry that this would reduce to a 'moderate' scale of effect by year 15.
33. The Council assessed the adverse effects to be greater in each case, concluding that even at year 15, the proposed development would have 'major adverse' visual effects on footpath users, as represented by viewpoints in the north-eastern and south-eastern corners of the site.
34. Having viewed the site from the footpath as it passes through the site and beyond into the fields to the south, it is clear that the proposed development would be highly prominent in views from the footpath along the entirety of its length within the site boundary. The introduction of 30 houses, together with gardens, roads and landscaping, would represent a very significant and permanent change in character, with a loss of the tranquil, open character of this rural walking route.
35. Walkers using the footpath can be reasonably expected to be doing so for recreation or health reasons and are therefore highly sensitive to changes in the environment. Consequently, I conclude that the proposed development would cause significant harm to users of the footpath within the site.
36. Despite the commitment to supplementary planting along the southern boundary of the site, the siting of open space in the south-eastern corner of the site and the gently rolling topography to the south, the proposed

¹⁴ Viewpoint locations are shown on Figure 4 of LVIA1 (CD1.22)

¹⁵ Viewpoint locations are shown on Figure 5 of LVIA2 (appended to the appellant's Landscape Proof of Evidence)

¹⁶ LVIA2, viewpoint 1

¹⁷ LVIA1, viewpoint 5

development would fail to assimilate into the backdrop of the existing built form of the village. I therefore consider that there would also be moderate harm to views from the footpath beyond the site to the south, looking north-west, even at year 15.

37. Turning to users of Upton Road (B4424) to the immediate west of the site, the proposed development would necessitate the removal and replacement of boundary hedgerow and the creation of a new permanent access road, as discussed above. This would harmfully alter views along Upton Road¹⁸ due to the fundamental change in character at this important entrance point to the village.
38. The main receptor group would be motorists, although there is also a pedestrian footway along this section of Upton Road, meaning walkers could also be affected. I accept that the creation of an area of public open space in the western part of the site could act as a visual buffer to some degree, but this would not fully mitigate the visual effects from Upton Road; the appeal scheme would nonetheless appear as a discordant form of development in its context. The fact that there is existing development in longer views along Upton Road northwards toward Callow End does not alter this finding.
39. On the basis of this assessment, I find that the proposed development would give rise to moderate harm to visual receptors on Upton Road, even at year 15. In arriving at this conclusion, I have had regard to the illustrative site layout plan¹⁹, which seeks to demonstrate that it would be possible to restrict the development envelope within the site to the west, south and east, by consolidating the new housing in the centre of the site and locating areas of public open space in the western and southern parts of the site. Since the appeal relates to an outline application and matters pertaining to layout are reserved for future consideration, I also note that there would be the flexibility to accommodate different approaches to layout, should they provide better mitigation of visual effects. However, neither of these considerations provide sufficient comfort that the proposed development could be delivered on site without the harm that I have identified above.

Conclusion on Landscape Character and Appearance

40. Drawing together the above analysis, I have found that the proposed development would result in:
 - significant harm to local landscape character as a result of the location of the proposed development;
 - significant harm to local and wider landscape character as a result of the proposed access arrangement; and
 - significant harm to visual receptors using the Public Right of Way within the appeal site.
41. For these reasons, I conclude that the proposed development would cause significant harm to the landscape character and appearance of the site and surrounding area. In this respect, it would conflict with Policy SWDP 21 of the South Worcestershire Development Plan (SWDP, adopted February 2016),

¹⁸ LVIA2, viewpoint 6

¹⁹ Illustrative Layout Plan Ref: 3750-04D (CD1.3)

which seeks high quality design that integrates effectively with its surroundings and safeguards the distinct identity and character of settlements. It would also fail to accord with Policy SWDP 25 of the same plan which requires proposals to conserve and where appropriate enhance the primary characteristics defined in the latest Landscape Character Assessment.

42. The appeal scheme would also be inconsistent with the Framework insofar as it requires decisions to contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside.

Suitability of the Site for Housing, Having Regard to its Location

43. It is common ground between the main parties that the appeal site falls entirely outside of the settlement boundary for Callow End and is therefore on land classified as open countryside.
44. In setting out the development strategy for the district, Policy SWDP 2 of the SWDP (2016) strictly controls new development in the open countryside in order to safeguard and, where possible, enhance the natural environment. The appellant accepts²⁰ that the proposed development would be in breach of part C of Policy SWDP 2.
45. Part B of Policy SWDP 2 sets out a settlement hierarchy against which 'windfall' proposals should be assessed. After the 'city', 'main towns' and 'other towns' categories, the hierarchy recognises the role of larger villages, which it defines as 'Category 1, 2 and 3 villages'. These are villages that provide a reasonable range of local services and facilities and as such are considered suitable for new housing at an appropriate scale to meet local needs, with Category 1 settlements being those with the most facilities.
46. Whether Callow End should be considered a Category 1 or Category 2 village is a matter of disagreement between the main parties. The supporting text²¹ to the policy notes that the specific role of each village is assessed and described in the Village Facilities and Rural Transport Study (VFRTS). The VFRTS was updated in September 2019²² at which point Callow End was found to display the characteristics of a Category 1 village, whereas an earlier iteration of the Study had found it to be a Category 2 village.
47. The appellant argues²³ that Policy SWDP 2 is a 'living policy', meaning it should be applied having regard to the evidence base at the time of decision-making. On this reading, the evidence base would indicate that Callow End exhibits the attributes of a Category 1 village, which would make it a marginally more favourable location for new housing than Category 2 or 3 villages.
48. However, even if this logic is followed and Callow End is considered a Category 1 village for the purposes of Policy SWDP 2, I am mindful that the appeal proposal does not involve an allocated site, nor would it constitute infill development within the village's development boundary. For these reasons, the proposed development does not align closely with the type of development envisaged for the Category 1, 2 and 3 villages within Table 2 of Policy SWDP 2.

²⁰ Paragraph 5.1.6 of the appellant's Planning proof

²¹ Paragraph 3, page 49 of SWDP (2016)

²² CD7.2

²³ Paragraph 21 of ID15

49. Notwithstanding these policy considerations, the site directly adjoins the southern boundary of the village and would be connected to it by pedestrian links, both along Upton Road and via the existing public footpath (PW-698) that crosses the site and joins Upper Ferry Lane. The proposed development would be located within approximately 800 metres of some essential local services, including the primary school, shop and post office, public house and village hall. Future residents of the scheme would be able to access the village facilities on foot or by bicycle.
50. From Callow End, there is a daily bus service to and from Worcester that would enable a greater range of facilities and services to be accessed by public transport. However, given the low frequency of services (typically four services in each direction daily on the 363 route), it is likely that most travel to Worcester and surrounding settlements would be by private car.
51. Therefore, despite the relative accessibility of the facilities of Callow End from the appeal site, this does not overcome the fact that the facilities of the village itself are limited in scope. Future residents of the appeal scheme would almost certainly need to leave the village in order to access work, education beyond primary school and many other routine health and retail facilities that are only available in larger settlements. Whilst the supportive comments of the Worcestershire County Council Public Health Officer²⁴ are noted, it must be borne in mind that these comments relate purely to the public health perspective rather than a wider assessment of the appeal scheme.
52. Ultimately, the site's close physical proximity to the village is not sufficient to justify its suitability as a location for 30 new houses. This would represent an extension of a significant scale relative to the size of the village and generate a considerable increase in journeys taken by car. Taking all of the above considerations into account, I do not find the location of the appeal site to be suitable for the proposed development.
53. The proposal would be in direct conflict with Policy SWDP 2 of the SWDP (2016) insofar as it strictly controls development in the open countryside and seeks to distribute development in accordance with the settlement hierarchy. It would also fail to accord with the objective of the Framework to promote a sustainable pattern of development. The weight to be assigned to this policy conflict is considered in a later section of this decision.

Other Matters

Housing Land Supply Position

54. Shortly before the Inquiry opened, the Council accepted that it could not demonstrate a five year supply of deliverable housing sites. The main parties agree²⁵ that there is a housing land supply of between 4.39 and 4.61 years, depending whether the calculation is performed jointly with the South Worcestershire Councils²⁶ or individually for Malvern Hills district. This equates to a shortfall of between 809.8²⁷ and 157²⁸ dwellings for the five year period.

²⁴ Page 8 of the Officer's Delegated Report (CD2.1)

²⁵ Statement of Common Ground: Five Year Housing Land Supply Addendum (CD4.10)

²⁶ South Worcestershire Councils includes the administrative areas of Malvern Hills, Wychavon and Worcester

²⁷ If calculated jointly for the South Worcestershire Councils

²⁸ If calculated for Malvern Hills district individually

55. There was sustained disagreement between the main parties about whether the housing land supply calculations should operate over the Malvern Hills district individually or over the wider South Worcestershire Councils area. This was also an area of contention in the recent appeal at Leigh Sinton, but no definitive view was reached in that case²⁹. In the present case, the main parties agree that whether the calculation is undertaken for the district individually or over the wider South Worcestershire Councils area does not make a significant difference to the extent of the shortfall in five year supply. In view of the figures set out above, this is a position with which I agree.
56. In addition to this, the main parties disagreed about the deliverability of five specific sites³⁰ relied upon by the Council as part of its supply calculation. The total difference between the parties was in the order of approximately 222 dwellings. It is clear that even if the maximum contribution from all of the sites was included in the supply total, there would be no meaningful difference made to the overall position of the Council being unable to demonstrate a five year supply of sites. This was a position accepted by the parties³¹. Consequently, it has not been necessary for me to reach a finding on each individual site, as it would have little bearing on the overall supply position.
57. Since none of the remaining areas in dispute would make a material difference to the agreed position that no five year supply of deliverable housing sites can be demonstrated or to the extent of the housing land shortfall, it was not necessary for the Inquiry to consider housing land supply matters in detail.

Benefits of the Proposal

58. The proposed development would make a meaningful contribution to the supply of both market and affordable housing in the local area, with approximately 18 market units and 12 affordable units being proposed on the site. In an area with an accepted shortfall of deliverable housing sites, these are social benefits that carry significant weight in favour of the appeal scheme.
59. The appellant contends that the Public Right of Way would be enhanced through the provision of an additional area of 2 metre wide footpath that would connect the site with Upper Ferry Lane. This measure concerns a short length of the footpath to the north of the site that, as I saw on my visit, is currently narrow and in a poor state of repair. Since the land in question does not fall within the site boundary, it is unclear how the commitment to this enhancement is secured. In the absence of certainty in this regard, I attach very little weight to this consideration as a social benefit of the scheme.
60. The appellant states that the proposed development would include approximately 1 hectare of public open space, equating to approximately 48% of the total developable area. I note the outline nature of the application subject to this appeal and the absence of a mechanism securing this commitment. Notwithstanding this, the illustrative layout plan demonstrates that a level of public open space that complies with or exceeds the 40% requirement of Policy SWDP 5³² could be accommodated on the site. Offsite highway works would improve pedestrian routes to the village and bus stop. Financial contributions would also be made to the provision of off-site open

²⁹ Appeal reference APP/J1860/W/21/3289643, paragraphs 41-44

³⁰ Schedule of Sites in Dispute (CD4.7)

³¹ Statement of Common Ground: Five Year Housing Land Supply Addendum (CD4.10)

³² South Worcestershire Development Plan (2016)

space and formal sports facilities locally via planning obligations. As these measures are largely necessary to make the development acceptable, they are social benefits that attract modest weight in favour of the proposal.

61. Turning to economic effects, the proposal would generate construction jobs and economic benefits within the local supply chain. The appellant estimates that the construction period could support approximately 81 direct, indirect and induced jobs, although these would be short term in duration. Once constructed, there would be increased household expenditure locally, estimated by the appellant to be in the region of £0.9 million³³. It is also reasonable to expect that there would be increased patronage of local businesses and services which could help to maintain the vitality of this rural community. Together, these economic benefits weigh moderately in favour of the proposed development.
62. The appeal scheme would make financial contributions to local infrastructure including transport, education and health care, secured by planning obligation. Since these contributions would be necessary to make the development acceptable, they attract little weight as benefits of the proposal. The generation of additional Council Tax revenue and attraction of New Homes Bonus are local finance considerations that carry modest weight, since there is limited certainty about how they would specifically benefit the area subject to this appeal.
63. In terms of environmental benefits, the appellant's assessment³⁴ concludes that the proposed development would deliver a 22.57% net gain for biodiversity and a 108.44% net gain in hedgerow units on the site. This would represent an overall enhancement in biodiversity terms. Electric vehicle charging points would be provided for the dwellings in accordance with Policy SWDP 4 of the SWDP (2016), secured by condition.
64. The appellant states that the proposal would also meet the requirements of the development plan in terms of renewable energy and climate change measures. A condition would ensure that at least 10% of the predicted energy requirements would be provided through renewable or low carbon generation measures, in compliance with Policy SWDP 27 of the 2016 Plan. Taken together, I assign modest weight to the environmental benefits of the scheme.
65. The 'locational' benefits alleged to arise as a result of the appeal scheme, in terms of growth at a Category 1 or 2 village and access to local services, have been addressed in my reasoning in respect of main issue (ii), above. I have found there that whilst it would provide reasonable access to the existing facilities of Callow End, overall the location of the site would not be suitable for the proposed development. It follows that the 'locational' benefits of the scheme attract very little weight in the overall planning balance.

Highway Safety, Flood Risk and Ecology Effects

66. The Inquiry heard evidence about other matters including the effects of the proposed development on highway safety, flood risk and ecology. Since these matters would not alter my findings in respect of the main issues, it is not necessary to consider them further here.

³³ Statement of Common Ground Addendum: Planning Benefits and Harms (1 July 2022)

³⁴ Ecological Assessment, August 2021 (CD1.17)

Planning Balance

Accordance with the Development Plan as a Whole

67. I have found above that the proposed development would cause significant harm to the landscape character and appearance of the site and surrounding area and would therefore conflict with Policies SWDP 21 ('Design') and SWDP 25 ('Landscape Character') of the SWDP (2016). The considerable degree of the conflict with Policies SWDP 21 and SWDP 25 attracts very significant weight in my assessment.
68. Since the appeal site lies outside of the settlement boundary and is in the open countryside, I have found that the proposed development would be in conflict with Policy SWDP 2. As set out above, the Council's current supply of deliverable housing sites falls short of the five years required by the Framework. At approximately 4.39 to 4.61 years³⁵, this represents a moderate shortfall. In the absence of a five year supply of deliverable housing sites, Policy SWDP 2 must be considered out-of-date for the purposes of footnote 8 and paragraph 74 of the Framework.
69. The appellant contends that there is an element of inconsistency between Policy SWDP 2 and the Framework, arguing that the Policy's aim to '*safeguard and (wherever possible) enhance the open countryside*' takes a more restrictive approach to development in the countryside than the Framework, which at paragraph 174(b) seeks decisions that '*contribute to and enhance the natural and local environment by...recognising the intrinsic character and beauty of the countryside*'. Framework paragraph 219 states that due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework.
70. Whilst different language is used, both SWDP 2 and paragraph 174(b) are underpinned by a policy imperative to sustain the innate character of the countryside. Moreover, the approach in SWDP 2 aligns with paragraph 69(c) of the Framework which encourages the development of windfall sites within existing settlements. Therefore, in the context of the present appeal, I consider SWDP 2 to be broadly consistent with the Framework.
71. The Council submits that whilst Policy SWDP 2 may be out of date, the weight to be attached to the proposal's conflict with the Policy should take account of past 'oversupply' of houses against local plan targets. It is common ground that housing targets in the adopted SWDP have been exceeded by approximately 2,912 units if calculated for the South Worcestershire Councils jointly or approximately 943 units if calculated on a Malvern Hills district basis³⁶. The appellant is resolute that past oversupply is immaterial to the weight that should be afforded to conflict with Policy SWDP 2.
72. Neither the Framework nor the Planning Practice Guidance ('the Guidance') provide a definitive steer on this matter and I am aware of the recent findings of another Inspector³⁷ that past oversupply of houses should not be included in forward projections for housing delivery, a position accepted by the Council in the present appeal.

³⁵ Depending on whether the calculation is performed jointly for the South Worcestershire Councils or individually for Malvern Hills district

³⁶ Statement of Common Ground: Five Year Housing Land Supply Addendum (CD4.10)

³⁷ Appeal reference APP/J1860/W/21/3289643

73. It is evident that past over-provision of housing has created more homes for people in the district than necessarily envisaged by the adopted plan. I have not been presented with clear evidence to demonstrate that over-provision has consumed some of the supply of land for housing, especially in light of submissions that a significant element of the supply has been delivered on windfall sites rather than allocated sites. Furthermore, there is no indication in national policy or the Guidance that development plan housing targets should be considered as ceiling figures. Indeed, the Guidance³⁸ is clear that the standard method for calculating local housing need provides a minimum number of homes to be planned for.
74. Even if the over-provision of homes against the adopted plan targets is an indicator of the success of Policy SWDP2, that does not change the fact that the Policy must now be considered out of date. The Housing Delivery Test result of 155% also does not alter this position.
75. All of this leads me to a finding that there is no compelling evidence that the demonstrated over-provision of housing against the targets of the adopted plan should increase the weight to be attached to proposal's conflict with Policy SWDP 2. Taking all of the above matters into account, I afford the conflict with Policy SWDP 2 moderate weight in my assessment.
76. The three South Worcestershire Councils are currently undertaking a review of the SWDP³⁹ addressing the period to 2041. Since the close of the Inquiry, a 'Regulation 19'⁴⁰ public consultation exercise on the draft Plan has begun. In respect of the policies of the adopted 2016 Plan most relevant to the appeal before me, I note that the draft policies of the emerging Plan indicate, in broad terms, no significant change in policy direction or emphasis. There is no proposed change to the development boundary for Callow End. Since the Plan remains at a relatively early stage of preparation, it carries little weight in my consideration of this appeal.
77. A number of other development plan policies are referred to by the parties in submissions, summarised at paragraph 3.3 of the Statement of Common Ground⁴¹. No substantive conflict with any of these other policies was alleged by the time that the Inquiry closed.
78. Drawing together all of the above findings, the conflict that I have identified in respect of SWDP Policies 21 and 25 attracts very significant weight whilst the conflict with out-of-date Policy SWDP 2 attracts moderate weight. Overall, this leads me to conclude that the proposed development does not accord with the development plan as a whole.

Paragraph 11 d) Balance

79. In the absence of a five year supply of deliverable housing sites, the proposed development must be assessed against the provisions of paragraph 11 d) of the Framework. The policies of the Framework that protect areas or assets of particular importance do not provide a clear reason for refusing the development proposed⁴² in this case.

³⁸ PPG Paragraph 001 Reference ID: 68-001-20190722

³⁹ South Worcestershire Development Plan Review: Regulation 19 Publication Document (November 2022)

⁴⁰ Regulation 19 of The Town and Country Planning (Local Planning) (England) Regulations 2012

⁴¹ Statement of Common Ground (CD4.4)

⁴² Framework paragraph 11 d) i.

80. In these circumstances, the Framework⁴³ indicates that the 'tilted balance' is engaged, meaning that 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. I have noted the Council's achievement of 155% in the 2021 Housing Delivery Test⁴⁴ but this does not disengage the tilted balance where a five year supply of deliverable housing sites is not demonstrated⁴⁵.
81. I have found that the proposed development would offer a number of social, economic and environmental benefits which weigh in favour of granting permission to varying degrees.
82. My analysis of the proposed development has found that it would cause significant harm to the landscape character and appearance of the site and surrounding area. These adverse impacts would affect both the site locality and the wider landscape character area, as well as users of the Public Right of Way. The effects would endure even beyond the 15 years assessed. My balanced judgement taking account of all the evidence is that this landscape character and appearance harm weighs significantly against granting permission.
83. In addition, I have found that the location of appeal site is not suitable for the proposed development. This finding also carries significant weight against granting permission.
84. Whilst I note the appellant's concerns about the potential for 'double counting' of harms with reference to the Statement of Common Ground on Benefits and Harms, I am satisfied that the above analysis avoids any such double counting.
85. Taking all of the evidence into account, it is my judgement that the adverse impacts of the proposed development in terms of landscape and location are so harmful as to significantly and demonstrably outweigh its benefits, when assessed against the policies of the Framework as a whole. As a consequence, I conclude that the proposed development does not benefit from the presumption in favour of sustainable development.
86. In arriving at this conclusion, I have had regard to the decisions of other Inspectors cited by the parties, including at Claphill Lane⁴⁶, Bransford Road⁴⁷ and Leigh Sinton⁴⁸. The planning balance undertaken in each of those decisions reflects the particular circumstances of the site and proposal and I note that all of those appeals proposed higher numbers of housing units than the case before me. None of those decisions alter my reasoning as set out above.

Final s38(6) Balance

87. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that my determination of this appeal must be made in accordance with the development plan unless material considerations indicate otherwise.
88. In view of my findings above, I conclude that there are no material considerations indicating that my decision should be taken otherwise than in

⁴³ Framework paragraph 11 d) ii.

⁴⁴ ID-14

⁴⁵ Footnote 8 of the Framework

⁴⁶ Appeal reference APP/J1860/W/21/3267054

⁴⁷ Appeal reference APP/J1860/W/19/3242098

⁴⁸ Appeal reference APP/J1860/W/21/3289643

accordance with the development plan. Consequently, since the proposed development is contrary to the development plan, the appeal must fail.

Conclusion

89. For the reasons given above I conclude that the appeal should be dismissed.

Jessica Powis

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Satnam Choongh of Counsel	Instructed by Terra
<i>He called:</i>	
Cameron Austin-Fell BA MSc MRTPI	Planning Director, RPS Consulting Services Ltd
James Atkin BSc (Hons) Dip LM CMLI	Senior Director (Landscape), Pegasus Group
Mike Glaze LLB (Hons) MIHE EngTech	Director, Rappor Consultants Ltd
Matthew Reid DipArb L6 (ABC) MArborA MICFor RCarborA	Registered Arboricultural Consultant, MHP Arboriculture

FOR THE LOCAL PLANNING AUTHORITY:

Howard Leithead of Counsel	Instructed by Jenny Ager, Senior Lawyer, Malvern Hills and Wychavon District Councils
<i>He called:</i>	
Christopher Lewis-Farley MLArch HND Arb	Tree and Landscape Officer, Malvern Hills District Council
Edward Buckingham MPlan MRTPI	Senior Associate Planner, Stantec UK Ltd
Richard Pestell BSc (Hons) MPhil MRTPI	Director, Stantec UK Ltd

INTERESTED PARTIES:

Councillor Tom Wells	Malvern Hills District Councillor (Powick Ward) and Council Leader
Pete Pedrick	Representing the Callow End Residents Group
Luke Jennings	Local resident

Maggie Huckfield	Powick Parish Councillor and Chair of Planning Committee
Robin Richmond	Local resident
Malcolm Adams	Local resident
James Middleton	Provision Planning Analyst (school places), Worcestershire County Council

DOCUMENTS SUBMITTED AT THE INQUIRY

- ID-1 Opening submissions on behalf of the appellant
- ID-2 Opening submissions on behalf of the Council
- ID-3 Written copy of oral submissions – Pete Pedrick on behalf of Callow End Residents Group
- ID-4 Copy of email from Andy Mileham on behalf of Worcestershire County Council dated 21 June 2022 in relation to highways matters
- ID-5 Written copy of oral submissions – Robin Richmond
- ID-6 Copy of email from James Middleton dated 8 July 2022 in relation to contributions to education provision
- ID-7 Draft conditions list version 9
- ID-8 Copy of appeal decision 2184128 regarding weight to be attached to New Homes Bonus as a benefit in the planning balance
- ID-9 Final draft s106 agreement (unsigned)
- ID-10 Primary education contribution justification from Worcestershire County Council submitted 13 July 2022
- ID-11 Email correspondence dated 10 June 2022 regarding Wheatfield Court (application ref 21/01276/FUL) affordable housing provision
- ID-12 Copy of email correspondence dated 25 October 2021 from Robin Richmond in support of his oral submissions in relation to ecological assessment
- ID-13 Draft conditions list version 10
- ID-14 Closing submissions on behalf of the Council
- ID-15 Closing submissions on behalf of the appellant

DOCUMENTS SUBMITTED BY AGREEMENT AFTER THE INQUIRY

- PD-1 Completed section 106 agreement 15 July 2022