

## **Town and Country Planning Act 1990 (as amended)**

### **Section 78 Appeal at Public Inquiry**

Local Authority Ref: W/23/02112/OUT

Planning Inspectorate Ref: APP/H1840/W/24/3347643

Proposal: Planning application for the demolition of existing farmhouse, agricultural buildings and structures, the erection of a phased development of up to 300 residential dwellings (Use Class C3) and associated public open space, drainage, infrastructure and engineering works with all matters reserved except access.

Location: Orchard Farm, Defford Road, Pershore, WR10 3BX

## **Summary of Proof of Evidence - Planning**

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Principal Planning Officer

Wychavon and Malvern Hills District Councils



# **1 Introduction and Qualifications**

- 1.1 My name is Gillian McDermott. I hold a Bachelor of Science (Honours) degree in Environmental Planning and a Masters in Town Planning, both obtained from Birmingham City University.

## **2 The effect of the proposal on the spatial strategy for the area, whether the proposal would be a suitable location for development**

2.2 The appeal site lies outside the development boundary of Pershore and therefore classed as open countryside. The proposal would not meet any of the exceptions as specified in Policy SWDP 2C and would be contrary to the locational strategy of the development plan. Further, the development fails to encourage the effective use and re-use of brownfield land and would fail to safeguard or enhance the open countryside.

## **3. Five year housing land supply**

3.1 It is accepted in the Planning PoE that the Council cannot currently demonstrate a 5YHLS and it is agreed that the current range for the supply is between 2.53 to 2.78 years, which represents a significant shortfall.

## **4. Whether Footnote 7 of the NPPF is engaged**

4.1 The listing of areas or assets is clearly set out in Footnote 7 of Para 11d) and in this case, Tiddesley Wood being an Ancient Semi-Natural Woodland (ASNW) and a SSSI, both of which are assets of particular importance.

4.2 It is clear from Mr Tom Clarkson's PoE that the development would result in adverse effects on the Tiddesley Wood SSSI and to the deterioration of the ASNW, both assets of particular importance. Footnote 7 therefore applies in this case which can disengage the tilted balance.

### Conclusion on impact upon SSSI

4.3 The appeal proposal would result in adverse effects upon the SSSI, contrary to Paragraph 186 b) of the NPPF due to increased recreational pressures, predation by cats and impacts from dogs. Impacts would also cause disturbance to the balance of the ancient woodland ecosystem.

4.4 Having considered the benefits of the development, it is not considered that these would outweigh the impacts from increased recreational pressure from

future residents, and their associated domestic pets, resulting in disturbance to the ecosystem of the SSSI and any broader impacts.

#### Conclusion on impacts upon ASNW

- 4.5 The increase in levels of residents and associated domestic pets would cause the deterioration of the condition of the ancient woodland. The impact is acknowledged to be small, but would nevertheless, result in a permanent, irreversible change. Footnote 67 is not applicable to the appeal proposal and in regard to Para 186 c) no implicit compensation for the residual harm is put forward.
- 4.6 Having considered the benefits of the development, it is not considered that these would outweigh the harm to the Tiddesley Wood SSSI and ASNW as required by Paras 186 b) and 186 c).

### **5. Impact upon bats and Biodiversity Net Gain**

- 5.1 The failure to consider the impacts of artificial lighting has the potential to result in adverse impacts upon bat species. Further, the proposal has failed to consider the potential importance of the River Avon to the bat populations on site, which are known to be key commuting corridors.
- 5.2 In regard to BNG, it is pointed out that surveys to inform the revised BNG was completed in April 2024, not the optimal time of year for grassland surveys. There are further questions as to why an outdated version of the BNG metric has been used in support of the application and advises that the management of the woodland directly affecting the woodland cannot be included within the BNG calculations

### **6. Impacts upon Tiddesley Wood Special Site of Scientific Interest (SSSI) and Ancient Semi-Natural Woodland**

- 6.1 The development would facilitate increased access to Tiddesley Wood due to the existing PROWs which would be retained and enhanced along with other cycle and pedestrian routes to be provided. This would result in increased recreational pressure on Tiddesley Wood.

6.2 The appeal proposal would also result in the built developed edge of Pershore being significantly closer to Tiddesley Wood, resulting in closer and increased access by future residents of the appeal proposal along with easier car parking.

## **7. Landscape impacts**

7.1 The adverse effects of the appeal proposal on the landscape character, its setting and in regard to visual amenity, are significant, irreversible and permanent. The appeal proposal would therefore result in significant permanent and irreversible change to the landscape character of the area in significant conflict with Policies SWDP 21 and SWDP 25.

## **8. Highway matters**

8.1 Since the submission by the LPA of the Statement of Case, the Local Highway Authority (LHA) have been working with the appellant's consultant in seeking to address the outstanding matters in their response as set out in CD 12.17. A revised recommendation of no objections subject to planning conditions and obligations is received from the LHA and dated 27.09.24 (CD 12.29). It is understood that all highways matters are agreed and therefore a Proof of Evidence on highway matters is not submitted. It is likely that an updated Highways SoCG will be reached and this will be submitted to the Inspector following the deadline of 8<sup>th</sup> October for the submission of Proofs.

## **9. The Planning Balance**

### **Housing Land Supply and Engagement of the Tilted Balance**

9.1 It is concluded that the Council can currently demonstrate a deliverable year supply of housing land within a range of 2.53 to 2.78, evidence upon which I rely. Given this lack of a full 5 year supply of housing, as well as the age of the SWDP being over 5 years, Paragraph 11(d) of the NPPF ('the tilted balance') could be triggered in this case.

9.2 It is evidenced that adverse effects would occur to the SSSI along with deterioration of the ASNW as a result of the appeal proposal, contrary to the principles as set out in Para 186 b) and c) of the NPPF. Footnote 7 relating to

Paragraph 11 d i therefore does apply and it is concluded that the tilted balance is not engaged.

- 9.3 It is clear in appeal precedent and case law that existing development plan policies should not simply be disregarded, and it is for the decision taker to consider the balancing of NPPF and out of date development plan policies in the round, prior to making their decision.

#### The Delivery of Housing, Affordable Housing and Other Benefits

- 9.4 The provision of housing, including 40% affordable housing (subject to this element being secured via Legal Agreement), is considered to be a significant benefit of the Appeal Scheme.
- 9.5 In the longer term, the development would contribute towards maintaining the vitality of local services and facilities in the town, as well as the provision of construction jobs and supply chain, benefits which I consider can be afforded moderate weight.

#### Conclusion and Application the Tilted Balance

- 9.6 In respect of the putative reasons for refusal 1 and 2, notwithstanding the benefits of the Appeal Scheme, which I have acknowledged, there are moderate conflicts with Development Plan Policy SWDP 2 in respect of its being located outside of the development boundary of Pershore, and not being brownfield land.
- 9.7 Adverse effects would occur to the SSSI along with deterioration of the ASNW which are both assets of particular importance. Having considered the benefits of the development, it is not considered that these would outweigh the harm to the Tiddesley Wood SSSI and ASNW as required by Paras 186 b) and 186 c) and it is therefore clear that planning permission should be refused.
- 9.8 Significant harm is also identified in regard to landscape character where development would adversely affect the setting of the adjacent, significant landscape feature of Tiddesley Wood and landscape character of the area. Local and wider views would also be harmed in particular due to the

topography of the site on the approach to Pershore from the west, expanding Pershore away from its urban core. The significant harm identified would represent very significant conflict with Policies SWDP 21 and SWDP 25 due to the permanent change in character and visual appearance of the landscape.

- 9.9 The tilted balance is hereby not engaged. Having weighed the benefits of the Appeal Scheme against the harms, I am of the view that the harms in terms of landscape and development outside of the identified development boundary and thus impact on the spatial strategy, along with the impacts upon the SSSI and ASNW are so harmful as to significantly and demonstrably outweigh the benefits of granting outline planning permission for the Appeal Scheme.
- 9.10 If it is determined that the tilted balance is engaged, the appeal proposal has already been acknowledged to result in a number of social, economic and environmental objectives. However, the proposal would cause significant harm to the landscape character, setting of the significant landscape feature of Tiddesley Wood (An SSSI and semi-ancient Natural woodland), result in adverse impacts on local and in regard to wider views in the landscape, as well as to users of the PROW. The effects would be permanent and result in an unacceptable expansion of Pershore away from its urban core into the open countryside.
- 9.11 It is my view therefore that planning permission should be refused and the Appeal dismissed.