
Appeal Decision

Inquiry opened on 28 January 2014

by B Barnett BA MCD MRTPI

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

Decision date: 4 March 2014

Appeal Ref: APP/J1860/A/13/2199166

Land to the rear of Karuna House, The Lodge, Tunnel Hill, Upton upon Severn

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
- The appeal is made by CALA Homes (Midlands) Ltd against Malvern Hills District Council.
- The application Ref 13/00136/FUL, is dated 18 January 2013.
- The proposal is a residential development of 24 dwellings, including 11 affordable dwellings with a new main vehicular and pedestrian access off the B4211 and associated car parking arrangements.

Summary of Decision: The appeal is dismissed.

Preliminary Matters

1. An inquiry into this appeal opened under a different inspector on 30 October 2013 but was adjourned and subsequently aborted. I considered the appeal afresh at an inquiry sitting from 28 to 31 January and on 3 February 2014. An application for costs was made by the appellant against the Upton Historic Park Conservation Group (UHPCG) in relation to the 30 October 2013 adjournment. This application is the subject of a separate decision.
2. On 27 January I viewed the site on my own from nearby and adjacent roads and footpaths. I made an accompanied visit on 30 January when I entered the site and also viewed it from the adjoining road and footpath and from neighbouring properties to the north.
3. After the appeal was made the appellant submitted several revised plans. These involve minor changes to details of the development and I have no reason to believe that anyone would be disadvantaged by taking them into account. I have determined the appeal on the basis of these plans.
4. In September 2013 the Council resolved that it would have refused planning permission for the development because of its impact on the landscape and the absence of a S106 Agreement. At the inquiry I was given a copy of a Unilateral Undertaking made by the appellant under S106 of the Act and dated 28 January 2014. This Undertaking deals, among other things, with the provision of affordable housing and payments in relation to educational facilities, off-site footways, open space and recreation facilities, and transport infrastructure and services. The Council confirmed that it secures satisfactory provision in relation to these matters and overcomes its second reason for wishing to refuse

permission. I have no reason to disagree. The Undertaking complies with the requirements of the Community Infrastructure Levy Regulations 2010 and I have taken it into account in determining the appeal.

5. The appellant has submitted an 'Outline Green Infrastructure Biodiversity Management Plan' (the Management Plan). This describes in some detail measures to improve the appearance and enhance the bio-diversity potential of the site, to make provision for protected species using it, and to maintain the veteran trees and other features within it. It was proposed at the inquiry that if permission is granted a condition would be attached requiring submission and approval before the development commences of a management and landscaping scheme closely reflecting this Management Plan. The matters dealt with in the Management Plan go to the heart of the acceptability or otherwise of the development and I agree that such a condition should be imposed if permission is granted. I have considered the appeal accordingly.

The Policy Background

6. The Council accepts that it cannot demonstrate a five year supply of land for housing and that, in accordance with Paragraph 49 of the National Planning Policy Framework (NPPF), policies in the Malvern Hills Local Plan (LP) in relation to the provision of housing are out of date. This applies to Policies DS11, DS12 and DS14 and to Policy DS1 insofar as it relates to settlement boundaries.
7. LP Policy DS1 identifies Upton as one of two second tier settlements in the District suitable to receive a significant amount of development, in contrast to other settlements where development is to be restricted. This is reflected in Policy SWDP2 of the emerging South Worcestershire Development Plan (SWDP). Policy SWDP 58 identifies the Tunnel Hill area as suitable for additional housing.
8. Examination of the SWDP is currently suspended as the inspector undertaking it has indicated that the scale of house building provided for appears to be inadequate. Because of this, little weight can be attached to Policies in this Plan. However, the recognition in the LP of Upton as a higher level settlement is likely to be retained in the SWDP as it progresses and there will be a need for more housing in this general area. As the built up area of Upton is surrounded by land which floods, any further development is likely to occur in a settlement close to but detached from the town itself. In this context, the appeal site is in a broadly sustainable location for the erection of new houses.
9. Various Policies in the LP relating to environmental matters, the quality of development and the provision of affordable housing continue to be relevant as they are broadly consistent with the NPPF. These include Policies DS3, QL1, QL14, QL19, QL20, QL21, QL22, CN1 and CN2.
10. As development plan policies for the provision of housing are out of date, Paragraph 14 of the NPPF is fully engaged. This sets out a presumption in favour of sustainable development. In relation to the appeal, this means that planning permission should be granted unless:
 - (a) Any adverse effects of so doing would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or
 - (b) Specific policies in the Framework indicate that development should be restricted.

11. In considering the appeal I have had regard to my duty in relation to biodiversity under S40 of the Natural Environment and Rural Communities Act 2006 and other legislation.

The Site

12. The appeal concerns most of a large field which at present is in pasture and used for grazing horses. It is to the west of an extensive low lying area much of which is flood-land for the River Severn. The site rises gently up from this low lying area to a more or less flat plateau. This contains about 1 ha of distinct ridge and furrow and some 11 veteran oak trees which are all about 600 years old. There is a small pond next to which is another mature, but not veteran, oak tree.
13. The frontage to the B4211 is marked by a belt of vegetation - mostly relatively young trees. There is a public footpath along the eastern boundary.

The Main Issues

14. The main issues to be considered are:
- (a) The effects of the development on great crested newts, bats and the veteran trees;
 - (b) Its effects on other aspects of biodiversity;
 - (c) Its impact on the landscape;
 - (d) Other effects of the development;
 - (e) Whether the development is sustainable and whether the test in Paragraph 14 of the NPPF is satisfied.

Great Crested Newts

15. Great crested newts (GCN) inhabit the pond within the site. If the development proceeds, this would be drained and reprofiled. It would be partly surrounded by roads and housing and would receive run-off from the roads as part of the site's sustainable drainage system (SUDS). Its value as a habitat for GCN would be greatly reduced, if not destroyed.
16. GCN are a protected species and, as the development would damage or destroy a breeding site for them, a licence from Natural England would be necessary for it to proceed. A licence can only be issued if there are imperative reasons of overriding public interest, and no satisfactory alternative is available. These two requirements are met as there is a pressing need to identify more land for housing in the District, and there is no indication that other sites exist which would fully meet this need. A third requirement, however, is that the development as a whole, taking into account mitigation and compensation proposals, must not be detrimental to the maintenance of the population of GCN at a favourable conservation status.
17. The Management Plan proposes the creation of two new ponds suitable for GCN, each with a surface area of at least 100 sq m. Land nearby would be planted with tussocky grassland and a native shrub/scrub mix and this would be subsequently maintained. Several hibernacula would be provided close to the ponds and adjacent to the eastern boundary of the site. The expert witness called by the UHPCG accepted that the terrestrial habitat to be provided would be suitable for GCN and an adequate replacement for that which would be harmed by the development. I have no reason to disagree. The adequacy of the replacement aquatic habitat was, however, disputed.

18. English Nature has published Guidance¹ on mitigation measures in relation to GCN. It is generally preferable that there is no, or minimal, public access to avoid problems associated with interference. Receptor sites should be of equivalent size and quality to the habitat to be lost. As a general guide GCN prefer ponds with a surface area of 100 to 300 sq m. It is often better to create several smaller ponds rather than one large one. High levels of human or animal disturbance, agricultural or road run-off and significant shading from trees should be avoided.
19. In this case the location of the new ponds is shown on the submitted plans but their detailed design would be subject to further consideration and approval. I have no reason to doubt that they could be provided with appropriate planting and that their profiles could be suitable for GCN.
20. It proved impossible at the inquiry to establish precisely the size of the present pond. The Appellant's expert witness estimated it as 31 sq m. The expert witness for the UHPCG estimated it at 450 sq m. At my visit the land was partially flooded and the pond was much more extensive than normal. I was shown vegetation protruding from the water which I was told marked the normal edge of the pond. This vegetation is visible on a photograph within ecological assessments submitted by the appellant. It seems to me from this that in normal conditions the open water of the pond is probably about 100 to 150 sq m.
21. On this basis, the two new ponds together would be more than equivalent in size to the present pond. I was told that where a licence is required English Nature normally looks for replacement ponds to be double the area of the original. If this is so, the new ponds may have to be more than 100 sq m each, but this is recognised in the Management Plan which refers to them as each providing a minimum surface area of 100 sq m. There is scope to increase the size of the ponds shown on the plans if this proves necessary to satisfy English Nature and this should not significantly alter the nature of the development for which planning permission is sought.
22. The UHPCG referred me to Advice Note 5 published by the Amphibian and Reptile Groups of the UK. This suggests that the optimum size of pond for GCN is 400 to 800 sq m. An article in the Herpetological Journal states that the optimum size is 500 to 750 sq m. In both cases the authors were discussing how to produce a measure of habitat suitability to predict the likelihood of GCN being present. This is not the same as establishing the optimum size where a new pond is being created. It is this latter factor which is of concern here and which is addressed in the Guidance from English Nature. This Guidance is clearly most relevant and on that basis the area of the replacement ponds is adequate.
23. As part of the development, a path would link the housing on the plateau to the lower part of the site and the adjoining public footpath, passing close to the new ponds. The Management Plan refers to a 'significant enhancement of public access' and shows an informal permissive route from within the housing area north eastwards towards Upton. Paths through the site are likely to prove attractive to recreational walkers. However, this is a rural area and the number of walkers is likely to be relatively small. Not all of them would pass the new ponds. People living on the site would also use the paths, but this is a

¹ Great Crested Newt Mitigation Guidelines. English Nature. August 2001

small development of only 24 houses. The overall volume of pedestrian traffic past the ponds is unlikely to be great.

24. The Management Plan would encourage residents to understand and take a pride in the environment within the site and its ecological interest. It is unlikely that they would deliberately or accidentally pollute the ponds, introduce fish or harmful plant species or encourage birds to use the ponds in a manner harmful to the GCN. The English Nature Guidelines do not preclude all access to ponds and I was told at the inquiry that they generally favour limited mixed use of sites. It seems to me that this is what the development would provide and that the presence of a path close to the ponds would not stop them being used successfully by GCN.
25. The Management Plan indicates that the water supply for the new ponds would come from a swale linking the present pond to the infiltration basin at the bottom of the site. Concern was expressed late in the inquiry that this could lead to pollutants entering the ponds. However, in evidence in chief the expert witness for the UHPCG agreed that feeding the ponds from the swale could work and the appellant's witness indicated that the ponds would be supplied with water, in part at least, from the adjoining land. It seems to me that the detailed design of the ponds could ensure that any significant risk of pollution is avoided.
26. I conclude that the replacement ponds and other provisions in the Management Plan would provide adequate compensation for the loss of GCN habitat and that, consequently, the development would not harm the favourable conservation status of GCN. In this respect, a licence for the works is likely to be granted by English Nature and the development would be consistent with the aims of paragraph 118 of the NPPF and LP Policy QL19.
27. Although the area of pond would be increased and there would be enhancement of the terrestrial habitat, this is necessary to ensure that GCN's are likely to use the habitat provided for them. The effect of the development on the survival, population and conservation status of the GCN would be neutral.

Bats

28. Various species of bat have been observed on and around the site. Bats are protected and it is an offence to damage or destroy a breeding site or resting place used by them. The development would not destroy any such site, but there are conflicting views as to whether it would cause damage to the suitability of roosting sites.
29. Some vegetation would be removed during the development, particularly along the roadside, but the planting proposed in the Management Plan would ensure that there would be no long term loss of foraging opportunities for bats. The expert witness for the UHPCG accepted that the development would be unlikely to significantly affect common or soprano pipistrelles and other bats which are not light averse even if they roost in the veteran trees. I have no reason to disagree. He was concerned that if light averse bats roost in them, the development would make these trees unsuitable for them and prejudice the bats' breeding and survival prospects.

30. The veteran oak trees close to where dwellings would be have many cavities, cracks and similar features and they have the potential to support bat roosts. They are all in Category 1 defined in the BCT Guidelines².
31. Both the appellant and the UHPCG have carried out surveys to assess the species of bat present, and their relative frequency. Common and soprano pipistrelles were the most frequent but there were several occurrences of brown long eared bats and on 13 occasions barbastrelles were recorded. The figures give little indication of the populations present. A single bat may be recorded several times. On the other hand barbastrelles are relatively hard to pick up in visual surveys and can also be missed even when using detectors. Both brown long eared and barbastrelle bats are light averse and favour roosting in trees.
32. The BCT Guidelines provide advice about how to carry out surveys to ensure the conservation of bats. These mainly address situations where trees are to be felled or lopped or work is to be done to buildings. However, in my view they are also relevant here to assess the likelihood that the veteran trees are used as roosting sites.
33. Table 8.4 in the Guidelines recommends steps which should be taken to assess the value of trees to bats. For trees in Category 1, it recommends 'more detailed off the ground visual assessment' and the carrying out of 'further dusk and pre-dawn survey'. In this case, no off the ground inspection was carried out. Visual inspection of the trees was from ground level only. Several dusk and pre-dawn surveys were carried out by the appellant and these found no evidence of activity likely to demonstrate the presence of a roost.
34. The Guidance makes it clear that when doing dusk and pre-dawn surveys 'sufficient surveyors should be used so that all aspects of the tree, building or structure can be viewed at one time; for a tree ... two surveyors may be adequate, but it is better to have some surveillance overlap.' The number of surveyors used by the appellant varied from one to three. Use of only one surveyor is unlikely to produce reliable results in relation to a single tree. It is even less likely to produce such results where, as here, each survey addressed several large trees in leaf. A surveyor would not be able to see bat activity on the far side of the trees nearest to him or in trees behind him or screened from his view.
35. The Guidance recommends a minimum number of presence/absence surveys which should be carried out to provide confidence in negative preliminary roost assessments. Where the trees have high roost potential there should be at least 3 emergence and 3 re-entry surveys. Surveys were carried out on more than 6 occasions but not all the trees were surveyed on each occasion. The survey records show that sometimes there were surveyors on both sides of a group of trees but this was not always the case. The coverage of the western row of trees appears to have been particularly limited and mainly confined to viewing them from one side. Few if any of the trees had the minimum number of surveys recommended in the Guidance.
36. Because of their limited nature, the emergence and return surveys may well have missed bat behaviour indicating the presence of roosts within the veteran

² *Bat Surveys – good practice guide* by the Bat Conservation Trust.

- trees. This is all the more likely in respect of barbastrelle bats as they are hard to spot even for a well-positioned observer.
37. Barbastrelle and brown long eared bats are present in the area and favour roosting in trees. The veteran trees are suitable for them to roost in. Although roosts have not been shown to be present, the information before me is insufficient for me to be at all confident that the trees do not contain roosts. There is a substantial risk that these bats do roost there. If the development proceeds they would be unable to continue to do so as light from the dwellings, cars and street lights would make the area unattractive to them. Conditions restricting street lighting and external lights on buildings might help but could not control light from car headlights or from windows and doors in the dwellings.
38. The Management Plan includes a proposal to install several Schwegler 2F bat boxes and bat tubes within the site. These boxes are unlikely to be used by barbastrelle bats and the tubes are a new and relatively untested product which may also not work for these bats. The provision was designed to improve conditions for the most common bats found at the site. It is unlikely to benefit barbastrelle or brown long eared bats or to off-set the harm which the development could cause in relation to these species. No other measures are before me to compensate for the potential loss of roosting habitat in the veteran trees for brown long eared and barbastrelle bats. Although an alternative design of box which could be used by barbastrelles was mentioned, it is unclear whether such a product exists, and if it does, whether boxes could be placed successfully within the site where they would not be affected by light.
39. I conclude that there is a substantial risk that the development would destroy the suitability of roosting sites for brown long eared and barbastrelle bats and that the survival, reproduction and population levels of these bats could thereby be prejudiced. On the information before me, it is unlikely that a licence for this would be granted by English Nature. In this respect the development would be inconsistent with the aims of paragraph 118 of the NPPF and LP Policy QL19. This factor points towards refusing planning permission and, having regard to the statutory protection afforded to bats, I attach substantial weight to it.

The Veteran Trees

40. The NPPF indicates that planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats, and the loss of aged or veteran trees unless the need for and benefits of the development clearly outweigh the loss. The development would not necessitate removal of any of the veteran trees on the site but there is concern about their long term survival and health due to their proximity to the housing.
41. The appellant proposes that if permission is granted a condition would prevent any work, including the digging of trenches or alteration of levels within Root Protection Areas (RPA) defined by BS5837(2012). This would in effect protect a 15 m radius around each tree. BS5837 is a widely recognised guide to steps necessary to prevent harm to trees during construction.
42. The UHPCG argued that more extensive RPA's are necessary because of the particular vulnerability of the trees. The Ancient Tree Forum and the Woodland Trust recommend a RPA 15 times the trunk diameter at breast height in

relation to ploughing and grazing and it was suggested that this should be applied here.

43. BS5837 does not seek to protect the entire root system of a tree but rather the area within which most of the roots lie so as to ensure that interference with the roots system does not significantly harm the tree. It indicates that in general there is no need to protect land more than 15 m from the tree regardless of its size or diameter. I was advised at the inquiry that the Ancient Tree Forum and the Woodland Trust tried to get their alternative method of assessing RPA's incorporated into the BS before it was revised in 2012 but that the BSI, having considered the suggestion, rejected it. In the circumstances, I consider that BS5837 provides the most appropriate guidance.
44. In my opinion the RPA's recommended by BS5837 are adequate to ensure the continued survival and health of the veteran trees. They have grown on relatively level open land and I see no need to adjust the RPA's to allow for asymmetrical root growth. Although their extreme age may make them more vulnerable than younger trees to changes in their root systems, there is a relationship between the size of a tree's root system and that of its canopy. These trees were once much larger and it is likely that their root systems have shrunk as their canopies have reduced in size. In most cases the present canopies are well within the recommended RPA.
45. The development would probably lead to more people using the land near the trees and to children playing there. However the number of people living here would be small and such activity is unlikely to significantly affect the health of the trees. The Management Plan would ensure that the land is appropriately maintained, that the trees themselves are properly cared for and that any safety concerns are dealt with in a way which does not harm the trees.
46. The measures set out in the Management Plan to protect and manage the trees are necessary to ensure that the development does not harm them. Without the development these measures would not be needed and they would not, in themselves, benefit the trees. The present situation where the trees are largely left alone and problems, such as grazing damage, are dealt with as and when they arise appears adequate to secure their health.
47. I conclude that the development is unlikely to prejudice the health or survival of the veteran trees. It would not, however, benefit these trees. In this respect the development has a neutral impact.

Other Aspects of Biodiversity

48. The Management Plan includes proposals for tree, hedge and shrub planting, for the introduction of areas of tussocky grass, for two new ponds and an infiltration bed, part of which would normally be wet. In addition there would be the provision of bat boxes suitable for common bats, two owl boxes, hibernaculas, and other features of value to wildlife. Although some of this provision is necessary to off-set the harm to the GCN habitat, it would also significantly enhance the overall biodiversity potential of the site. This is a factor in favour of the development to which I attach some weight.

Landscape

49. The large veteran trees standing in the open give the site a parkland character. This is part of a larger area of parkland which extends across the low lying land

- to the east and south and has been a component of the landscape here for a very long time. It is a feature of historic significance as a relict of the past. The concentration of veteran trees on the upper part of the site where the dwellings would be built is unusual and uncharacteristic of the wider parkland.
50. The upper part of the site also has a large area of well preserved and prominent ridge and furrow which is another relict of the past of some historic significance. The pond adds further visual interest. It is a man-made feature formed to provide water for livestock and is yet another reminder of how the land has been used in the past.
 51. Individually each of these features is a heritage asset of considerable interest and landscape value. When seen together on the upper part of the site, they form a landscape of exceptional character which creates a most attractive and uncommon sense of space, peace, and the continuity of human presence. This landscape itself is a heritage asset of local significance.
 52. Viewed from the bridge on the road into Upton some of the proposed dwellings would be visible on the skyline or against the background of trees to the west. Because of the distance involved they would not be particularly prominent in themselves, but their presence would affect views of some of the veteran trees which would no longer stand out clearly in the landscape and in some cases on the skyline. They would be seen against or behind buildings and their significance in the landscape as part of the wider parkland would be reduced.
 53. From the well used public footpath immediately east of the site this effect would be greater. The open parkland character is prominently in view as one approaches the site from the north and several of the veteran trees stand out clearly as individual features of interest. The upper parts of the dwellings at the edge of the plateau would be visible as a line of buildings along the skyline and would change the context within which the trees would be seen. Their parkland setting and individual significance would be eroded.
 54. From further to the south along the footpath the parkland character of the site is less apparent but several of the veteran trees are seen on the skyline. The dwellings at the south of the site would form a backdrop to these trees making it harder to discern their unusual forms and reducing their significance in the landscape.
 55. The development would change the present wooded rural character of the road frontage which would be opened up by the removal of many small trees and the introduction of an access road. This would be partly off-set by replacement planting. Seen from here, the undeveloped character of the site would also change with dwellings and the roadway in prominent view. There are now glimpses through the roadside vegetation of the parkland and veteran trees within the site and the significance and visual impact of these features would be eroded by the presence of the dwellings.
 56. It is mainly from within the site and from the grounds of The Hill, a large house to the north, that the landscape within it can be fully and readily appreciated, although this could change if outbuildings and hedges screening it from other houses and from the road were removed. The development would destroy almost all the ridge and furrow. The field pond would be surrounded by roadway and dwellings and take on a more urban character. It would still be possible to appreciate the individual veteran trees from close up but their

historic context would be lost. They would no longer be seen in an open setting and as part of the wider parkland landscape but surrounded, adjoined or against the backdrop of buildings. The unique combination of features of visual and historic interest within the site which gives rise to its exceptional landscape quality would be largely destroyed.

57. The landscape here is not formally designated in any way, but it has an exceptional visual and historic character of local importance. The development would destroy or seriously damage much of this character. It would be inconsistent with one of the key principles of the NPPF that planning should conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations. In this respect it would be inconsistent with Paragraph 109 of the NPPF which advocates protecting and enhancing valued landscapes, and with the aims of LP Policies QL1 and QL14. These factors point towards refusing planning permission and I attach substantial weight to them.

Other effects of the development

58. The development would address the current shortfall and help ensure that there is an adequate supply of land for housing in the district. It would also help meet the need for affordable housing. These are factors in favour of the development to which I attach substantial weight.
59. It would create a distinctive and high quality residential environment and a very pleasant place in which to live. The houses are well designed and would be built to level 4 of the Code for Sustainable Homes. The measures set out in the Management Plan would benefit some aspects of the site's biodiversity.
60. The above average quality of the proposal is a factor in favour of granting planning permission. However, as a high standard of design and a sympathetic approach to biodiversity are expected in all developments, it is a factor to which I attach only limited weight.
61. The provision for public access by walkers, for a view point and for improvements to foot-ways outside the site are also factors in favour of the development. However, it seems unlikely that these would be frequently used by people living outside the site so I attach only limited weight to them.
62. The SUDS would be designed to have spare capacity in the short term so as to cope with the effects of climate change. However, I have no reason to believe that there are any drainage problems in the immediate area which this would alleviate. No benefit would arise from this aspect of the development.

Sustainability and the Test in Paragraph 14 of the NPPF

63. The Policies in paragraphs 18 to 219 of the NPPF, taken as a whole, define what constitutes sustainable development. It has three dimensions – economic, social and environmental.
64. The development would be sustainable in respect of the economic and social dimensions as it would contribute to the supply of housing and increase economic activity generally and it would create a high quality built environment for people to live in. In respect of the environmental dimension, however, the situation is not straightforward. There would be benefits in relation to some environmental matters but harm in relation to others.

65. There would, for example, be some benefit to biodiversity but a substantial risk to rare protected bats. Achieving Level 4 of the Code for Sustainable Homes would help address climate change and resource issues and the development would produce a very pleasant place in which to live, but there would be serious damage to a landscape of exceptional visual and historic interest.
66. Because of the irreplaceable nature of the exceptional landscape which would be affected and the statutory protection afforded to the bats I consider that overall in respect of the environmental dimension the harm which would be caused outweighs the benefits.
67. Taking the three dimensions together, I consider that the net environmental harm which the development would cause outweighs the economic and social benefits and that, having regard to the Policies in the NPPF as a whole, the development would not be sustainable. Moreover, although I attach substantial weight to the benefits of the development, particularly in addressing the need for more housing in the District, in my view the adverse environmental effects which the development would cause in relation to the protected bats and the exceptional landscape significantly and demonstrably outweigh all the benefits which the development would produce.
68. For this reason, I conclude that planning permission should not be granted.

Decision

69. The appeal is dismissed and planning permission is refused.

B Barnett

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr Hugh Richards	of Counsel
He called	
Mr Charles Potterton BA DipLA CMLI	Potterton Associates Ltd
Mr Simon Jones BA DipTP MRTPI	Principal Planning Officer, Malvern Hills District Council

FOR THE APPELLANT:

Mr Satnam Choongh	of Counsel
He called	
Mr Philip Rawle BSc MA DipTP MRTPI	PRP Consultants Ltd
Mr Kurt Goodman MSc BSc MCIEEM	FPCR Environment and Design Ltd
Mr Peter Wilkins BA MArborA Tech Cert ArborA	Ruskin Group Consultancy
Mr Mark Collard BA MifA	Cotswold Archaeology
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FOR THE UPTON HISTORIC PARKLAND CONSERVATION GROUP

Mr Scott Stemp	of Counsel
He called	
Dr Roger Ransome BSc PhD	Bat Pro Ltd
Mr Will Watson BEd MIEEM	Consulting Ecologist

DOCUMENTS SUBMITTED AT THE INQUIRY

- 1 List of plans considered at the inquiry
- 2 Bundle of representations from interested parties
- 3 Arboricultural proof of evidence of N Fay
- 4 Unilateral Undertaking dated 28 January 2014
- 5 Report on the application by MHDC Landscape Officer
- 6 Plan showing nearby housing site and landscape character areas
- 7 Plan from Strategic Housing Land Availability Assessment
- 8 Great Crested Newt Habitat Suitability Index. Amphibian and Reptile Groups UK
- 9 Ancient and Other Veteran Trees – further guidance on management. Woodland Trust
- 10 E-mail correspondence with the Worcestershire Wildlife Trust
- 11 Appeal decision APP/H1840/A/10/2124085 (Badsey)
- 12 The Landscape Character Assessment Explained
- 13 English Heritage report on Ham Court Park
- 14 English Heritage report on Ridge and Furrow
- 15 Extract from draft South Worcestershire Development Plan
- 16 E-mail correspondence with County Environmental Services (Highways)
- 17 Extracts from book by Dr Lockett re Ham Court and Tunnel Hill

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