

Appeal Decision

Site visit made on 3 November 2016

by Susan Heywood BSc(Hons) MCD MRTPI

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

Decision date: 23 November 2016

Appeal Ref: APP/J1860/W/16/3152297

Land adjacent to Parsleys Patch, Longley Green, Suckley, Worcestershire WR6 5DU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mrs Jeanette Peplow against the decision of Malvern Hills District Council.
 - The application Ref 15/00964/FUL, dated 30 June 2015, was refused by notice dated 5 February 2016.
 - The development proposed is described as "*Outline application for 2 no. of detached dwellings on land known as Parsleys Patch*".
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Decision

1. The appeal is dismissed.

Preliminary matters and Main Issues

2. I have used the address on the Council's decision notice rather than that on the application form as that is a more precise description of the site's location.
 3. The description of development on the application form refers to an 'outline' application. However, the application was made on forms relating to a full application. The Planning Statement which accompanied the application and the appeal statement both refer to the proposal being a full planning application made to address concerns raised by an Inspector in a previous appeal (ref: APP/J1860/A/14/2222266). The plans accompanying the application contain details of access, appearance, layout and scale for the proposed dwellings and their garages. I have therefore treated the appeal as relating to a full application for planning permission.
 4. The Council's reasons for refusal of the application included the lack of a legal agreement to secure affordable housing. Having regard to a change in Government policy regarding affordable housing provision on small sites, the Council have confirmed that they are not seeking a contribution for this proposal and have subsequently withdrawn this reason for refusal. I will not therefore consider this matter further in this decision.
 5. The **main issues** in this appeal therefore relate to the impact of the development on the character and appearance of the surrounding area having regard to the location of the appeal site in the Malvern Hills Area of Outstanding Natural Beauty (AONB) and its impact on trees protected by a
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Tree Preservation Order (TPO), particularly having regard to the provision of required visibility splays at the site access.

Reasons

Character and appearance issues

6. The National Planning Policy Framework (the Framework) states that AONBs have the highest status of protection in relation to landscape and scenic beauty and requires great weight to be given to conserving landscape and scenic beauty in such areas.
7. The appeal site is located beyond the western boundary of the village and consists of a steeply sloping site. A copse of mature trees is sited on the boundary with the road to the south, these are protected by the TPO. Further trees are located towards the north of the site adjacent to Leigh Brook. A footpath runs along the eastern site boundary providing access from the road to the brook and into woodland beyond. The site is visible across open countryside to the west.
8. An *Initial Landscape and Visual Assessment* (ILVA) submitted with the appeal is dated January 2014. It identifies localised views as being those most likely to alter as a result of the development of this site and this accords with my observations. In particular, medium distance views from the north west and west of the site, short distance views from the road to the front of the site and those from the public footpath to the east would be affected. The ILVA concludes that a development of up to 2 two storey dwellings could be accommodated on the site. However, the report indicates that development should be placed as close as possible along the site frontage to continue the existing strong development pattern and reduce the overall impact on the existing settlement pattern. It also concludes that the proposed layout should be subject to a full landscape and visual assessment to assess the impact of the final design. There is no indication that the proposed layout and design of dwellings in this appeal has been so assessed.
9. The proposed layout does not respect the existing settlement pattern as recommended in the ILVA. The proposed dwellings would be accessed from a long driveway which would curve its way into the site. The dwellings would be set back from the road and would not therefore respect the existing linear nature of the settlement. I acknowledge that the siting of the dwellings is constrained by the location of the protected trees to the frontage of the site. I have had regard to the siting of the dwelling on plot 1 shown on an earlier drawing, when it was proposed to be closer to the southern boundary. However, I would share the Council's concerns relating to the impact of shading on the front elevation of the property on plot 1 with that alternative siting, as well as the potential impact of construction work in such close proximity to the protected trees.
10. The proposed dwellings would be sited with two large detached double garages located between the two plots. The result would be the elongation of the footprint of development on the site resulting in a significant extension of the settlement edge westwards from its current location. I share the concerns of the previous Inspector who considered that development at the western edge of the site is more difficult to assimilate into the development pattern of the settlement than development to the east of the site.

11. Furthermore, due to the significant slope within the site it is likely to be necessary to alter the levels and / or design the dwellings and garages to take account of the sloping land. Adjacent dwellings are split-level dwellings being single storey to the front, facing the road, but two storeys to the rear, facing the river. The submitted drawings show the dwellings to be two storeys in height at both the front and the rear and the garages to be single storey to the rear. However, the topography is such that the proposed dwellings and garages would require building up at basement level to the rear. Alternatively, significant alterations to the land form would be required to provide a level base on which to site the dwellings. There is no indication on the submitted plans as to how the change in levels on the site would be accommodated. Either of these options would significantly increase the bulk, scale and visual impact of the development particularly when viewed from the north and west.
12. For the above reasons, the proposed development would cause significant harm to the character and appearance of the AONB. This would be contrary to policy SWDP 23 of the South Worcestershire Development Plan (SWDP), adopted February 2016, which requires development proposals within an AONB to conserve and enhance the special qualities of the landscape and states that development which has a detrimental impact will not be permitted.

Impact of visibility splay on TPO trees

13. The Council raise concern that the required sight-lines at the access would pass through the trunk of T2, a mature lime¹. The appellant claims to have provided a plan to demonstrate that this would not be the case. However, I am not satisfied that the submitted plan does demonstrate that the required sight-line could be achieved to the west. In particular, the sight-line as annotated on the plan appears to be incorrectly drawn to a point within the carriageway, rather than to the edge of the verge. It also does not appear to be taken from the centre of the access point². Furthermore, the access into the site is set on a significant slope. In reality, this restricts the achievable visibility splay to the west. No account has been taken of this road alignment in the submitted information.
14. I note that the vehicular access point has previously been granted planning permission. However, this related to an agricultural use of the site. The level of movements to and from the site and the type of vehicle accessing the site would be significantly different in this appeal.
15. The Council raised concern that the provision of the sight-line to the west would require the removal of a significant length of hedgerow along the frontage of the site. However, at the time of my visit, that part of the hedge close to the site access had already been reduced to such a height that its removal, if this were necessary, would not cause significant harm to the character or appearance of the surroundings. Further to the west, the hedge is a significant landscape feature and I would share the Council's concerns if this were to be removed. However, it is not possible to determine whether or not this would be necessary on the basis of the submitted information.

¹ The Council describe the tree as a veteran tree and therefore refer to policy SWDP 22 which seeks to protect veteran trees. This information is not disputed by the appellant.

² The 2.4m 'x' distance (ie. the distance back from the road along the access) is located slightly off-centre within the access.

16. Based on the submitted information therefore I am not satisfied that the required visibility splays could be achieved. This could result in the removal of the lime tree in order to provide the visibility splays. This would be contrary to policy SWDP 22 which seeks to protect veteran trees. It would also be unacceptable due to the harm this would cause to the character and appearance of the area. Alternatively the development would have substandard visibility splays at the site access. There is no evidence provided that would allow me to conclude that reduced visibility splays would be acceptable in this location.

Other matters

17. The Council accepts that the site is in a sustainable location having regard to its accessibility and proximity to services and facilities. However, policy SWDP 2 sets out the overall development strategy and settlement hierarchy. Longley Green is a Category 3 settlement, the role of which is identified as meeting locally identified housing and employment needs. The appeal site is located outside the defined settlement limits for the village, in the open countryside. Part C of policy SWDP 2 states that development in such areas will be strictly controlled and limited to dwellings for rural workers (amongst other categories of development none of which are relevant to the consideration of this appeal). The proposed development is not for such purposes and it would therefore be contrary to policy SWDP 2.
18. At the time of the Council's consideration of the application, they could not demonstrate a five year supply of housing to meet their requirements as required by the Framework. However, their appeal statement indicates that circumstances have changed and they claim that a five year housing land supply can now be demonstrated. The appellant does not dispute this information³. Consequently, the Council's policies for the supply of housing, including policy SWDP 2, are not out-of-date having regard to paragraph 49 of the Framework and they can be afforded full weight.
19. I note the appeal decision, ref: APP/J1860/W/15/3135977, for dwellings on land at Brookend, Pendock. That appeal was allowed despite the site being located within the open countryside. However, the Inspector in that appeal found no harm to the character or appearance of the area. Neither were considerations relating to development within an AONB pertinent in that appeal. That is different to the considerations in the appeal before me.
20. There is some local support for the proposal and I note the support for some additional housing in the Parish Council's survey. However, this does not overcome the harm identified above.
21. Flooding concerns have been raised by some local residents. The submitted Flood Risk Assessment indicates that the proposed dwellings would be located within Flood Zone 1 ie. outside of any flood risk area. It also states that existing floodplain storage volumes and existing flood zone extents and levels would remain unchanged. Surface water management proposals would ensure no flooding would be caused by surface water run-off. There is therefore no evidence that the proposal would increase flood risk off-site. I note that the

³ I note the evidence in the Planning Statement which accompanied the planning application. However, this was dated July 2015 and pre-dates the adoption of the South Worcestershire Development Plan. I have therefore given greater weight to the more up to date evidence provided by the Council in this appeal.

submitted information satisfied the concerns of both the South Worcestershire Land Drainage Partnership and the Council in terms of flood risk.

Conclusion

22. I note the references in the appellant's evidence to the Framework and its support for sustainable development. I also acknowledge that there would be some social and economic benefits to the proposal, albeit that these would be limited. However, the Framework makes clear (at paragraph 12) that proposals that accord with an up-to-date development plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise. The proposal would conflict with policy SWDP2 having regard to its location in the open countryside. Furthermore, the harm that would be caused to the character and appearance of the AONB and the potential harm to the lime tree covered by a TPO lead me to conclude that the proposal would conflict with the development plan. It would not therefore constitute sustainable development. There are no material considerations of sufficient weight to lead me to conclude that the proposal should be determined other than in accordance with the development plan.

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

Susan Heywood

INSPECTOR