
Appeal Decision

Site visit made on 15 March 2017

by Roger Catchpole DipHort BSc(hons) PhD MCIEEM

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

Decision date: 11 April 2017

Appeal Ref: APP/J1860/W/16/3156731

7 Broadwas Court, Church Lane, Broadwas, Worcestershire WR6 5NQ

- 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 Mr P Ashcroft against the decision of Malvern Hills District Council.
 - The application Ref: 15/01253/OUT, dated 26 August 2015, was refused by notice dated 17 May 2016.
 - The development proposed is a detached dormer bungalow and associated garage utilising existing access within curtilage of No 7 Broadwas Court, together with new detached single garage and access to serve No 7 Broadwas Court.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application form did not identify a specific address for the site despite the fact that the proposal relates to the garden of an existing property. This was rectified on the appeal form where a full site address was given. In the interests of clarity and accuracy this is the address that I have used for the purposes of this appeal.
3. The application was submitted in outline, with only access to be determined at this stage. This is the basis upon which this appeal has been determined.
4. As the proposal is near a Listed Building I have had special regard to section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).

Main Issues

5. As the Council has withdrawn its third reason for refusal the main issue is the effect of the proposal on the character and appearance of the open countryside with special regard to the setting of a nearby Grade II* listed building, St Mary's Magdalene Church.

Reasons

6. The appeal site is situated in an isolated, loosely arranged hamlet in the open countryside to the west of Worcester. It comprises part of a garden and driveway associated with a residential property situated immediately to the west. The graveyard of St Mary's Magdalene Church abuts the southern boundary with the church forming a prominent backdrop to the appeal site.

The eastern boundary is defined by a high brick wall comprising the boundary of the neighbouring property, Nettles. The northern boundary of the appeal site is bounded by a driveway linking a nearby property and the host property with Church Lane to the east. The proposal comprises the erection of a bungalow and garage as well as the formation of an additional access point and garage to serve the host property.

7. St Mary's Magdalene Church was listed in 1959 and dates from the late 12th century with later additions. It was restored around 1885 by Charles Hodgson Fowler. It is constructed from partly coursed, sandstone rubble and sandstone ashlar. The roof is tiled and it has a distinctive, timber-framed bell tower with a wooden weatherboard covering dating from the late 19th century. The church has a tranquil, rural setting with a high degree of visual prominence that arises from the elevated ground upon which it is situated and its low retaining walls. The space about the building and its enclosure are important aspects of its historic context given the functional significance of the graveyard and the way in which these combined features are experienced from the surrounding area. Given the above, I find that the setting of the listed building, insofar as it relates to this appeal, to be primarily related to the integrated views of the church, within its curtilage, from the north as well as its wider, rural context.
8. I observed from my site visit that the northern boundary of the graveyard does not benefit from a historic boundary feature and is currently defined by a high, close boarded, wooden fence. Consequently, the northern setting of the church has a high degree of sensitivity to change because of the lack of any historic enclosure. Although scale and layout are reserved matters, the size of the plot is such that a two bedroom house, garages, associated hard landscaping and domestic paraphernalia would inevitably detract from the prominence of the listed building.
9. The appellant is of the opinion that the building would be on lower ground and largely screened from the church by the wooden fence. However, views from the churchyard are only one aspect of the historic setting of the building. The National Planning Policy Framework 2012 (the Framework) clearly advises that the setting of a heritage asset comprises the surroundings in which it is experienced. As Historic England has pointed out, the development would block views of the church from the north and add to the harm that has already been caused by the wooden fence. As such, the proposal would add to the negative change that has already occurred within its setting thus contributing to a clear cumulative impact. Unlike the fence, the proposal would result in the erection of permanent structures with a lasting negative impact on this important heritage asset.
10. Paragraph 132 of the Framework advises that when considering the impact of development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. It goes on to advise that significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. Given the proposal affects the setting to the rear of the church, I find the harm to be less than substantial in this instance but nevertheless of considerable importance and weight. Under such circumstances, paragraph 134 of the Framework advises that this harm should be weighed against the public benefits of the proposal. The appellant has suggested that the proposal would assist in the 'policing' of the current driveway. As no explanation is given as to why this is a planning matter or

how it would constitute a public benefit it lacks any clear justification and consequent weight.

11. Given the above and in the absence of any defined public benefit, I conclude that the proposal would fail to preserve the setting of the Grade II* listed building. This would fail to satisfy the requirements of the Act, paragraph 134 of the Framework and conflict with policies SWDP 6 and SWDP 24 of the South Worcestershire Development Plan 2016 (DP) that seek, among other things, to ensure that development proposals conserve and enhance heritage assets and their settings and that sufficient information is provided to enable potential impacts to be adequately assessed. As a result this aspect of the proposal would not be in accordance with the development plan.
12. More broadly, the proposal would lead to an unacceptable, cumulative increase in the urbanisation of both the hamlet and the open countryside. Whilst only indicative and not determinative, the layout plan also suggests that the proposal would lead to a cramped, overdevelopment of the site. The appellant has suggested that the proposal would constitute 'infill development' and that other, unspecified schemes away from the village centre are either ongoing or have gained approval. I acknowledge a number of modern residential dwellings within the hamlet but do not have any evidence before me concerning the circumstances of their construction or their lawfulness.
13. Turning to whether or not the proposal would constitute acceptable infill development, the site is outside the defined settlement boundary of Broadwas which is defined as a Category 2 settlement in Annex D of the DP. Policy SWDP 2 states that infill development is only acceptable when it is within the defined development boundary of such settlements. This policy goes on to clearly and unequivocally state that open countryside comprises any land beyond the development boundary and that all development will be strictly controlled. Whilst a number of exceptions may permit development no argument has been advanced that would support any such exception in this case. Given the above, I find that the proposal would cause significant harm to the character and appearance of the open countryside contrary to policy SWDP 2 of the DP. As a result this aspect of the proposal would not be in accordance with the development plan.

Other Matter

14. The appellant has drawn my attention to the alleged reluctance of the Council to engage and attend meetings at the appeal site. However, this is an internal, procedural matter that is beyond the scope of an appeal made under section 78 of the Town and Country Planning Act 1990 (as amended).

Conclusion

15. For the above reasons and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Roger Catchpole

INSPECTOR