
Appeal Decision

Site visit made on 9 May 2017

by I Radcliffe BSc(Hons) MRTPI MCIEH DMS

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

Decision date: 25 May 2017

Appeal Ref: APP/J1860/W/17/3168475

Moseley House, Moseley Road, Hallow, Worcester WR2 6NL

- 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 Mr Peter Norris against Malvern Hills District Council.
 - The application Ref 16/00175/FUL, is dated 15 January 2016.
 - The development proposed is demolition of existing garages, stables and storage buildings and construction of a new two storey residential dwelling on existing footprint and the erection of a new detached double garage.
-

Decision

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

Main Issues

2. The main issues in this appeal are;
 - whether the appeal site would be a suitable location for development with particular reference to the development strategy for the area and the accessibility of services and facilities from the site by sustainable modes of transport; and,
 - the effects of the proposed development on the character and appearance of the area, wildlife, highway safety and trees.

Reasons

Location of development

3. The development plan for the area includes the South Worcestershire Development Plan (SWDP) which was adopted in 2016. In order to further sustainability objectives, and in the interests of protecting the countryside, policy SWDP 2 sets a development strategy for South Worcestershire. Among other things, windfall development proposals, such as the appeal proposal, are to be assessed in accordance with the identified settlement hierarchy, which has the city of Worcester at the top, 'main towns' in the second tier and 'other towns' in the third tier. The two remaining categories cover villages in rural areas where some new windfall housing is supported within defined development boundaries.
 4. The appeal site is located beyond any settlement boundary as defined in the SWDP. It is not an allocated site, nor is it within a village where windfall development may be appropriate. As a consequence, for planning policy purposes it lies outside the settlement hierarchy within the open countryside where new development is strictly controlled by policy SWDP 2. It is no part of
-

the appellant's case that the proposal accords with the exceptions set out in this policy. The proposed new house would therefore be contrary to policy SWDP 2.

5. In terms of accessibility, policy SWDP 4 requires, amongst other matters, that proposals must offer genuinely sustainable transport choices. The justified reasoning to the policy confirms that the overarching development strategy of the SWDP is to focus development where it has good access, by sustainable modes of transport, to local services. The location of the proposed development therefore needs to be assessed in this regard.
6. The Council states that the nearest facility is the Fox Inn public house 1.2km away and that the nearest bus stops are 1.5km distant. This has not been challenged by the appellant. In my assessment, having regard to national guidance contained within Manual for Streets and the Institute of Highways and Transportation 'Guidelines for Providing Journeys on Foot', such one way walking distances are likely to result in future residents of a development choosing not to walk to access public transport or other facilities. The fact that Moseley Road does not have a footway and is unlit confirms my view of the appeal site in this regard.
7. On the basis of the evidence that has been submitted I therefore conclude that it has not been demonstrated that the proposal would offer genuinely sustainable transport choices. The proposal would therefore be contrary to policy SWDP 4.

Character and appearance

8. Of the policies referred to, policies SWDP 21 and 25 are relevant to this issue. They require that new development is well designed and integrates with the landscape character.
9. Moseley House is located within a flat agricultural landscape of hedged arable fields. It is a well-proportioned property with a gable ended roof and symmetrical appearance that directly faces Moseley Road and makes a positive contribution to the character and appearance of the locality. The appeal site forms part of the garden to the side of Moseley House. Single storey outbuildings which are utilitarian in appearance occupy a significant part of the site. However, due to their limited height and presence of a tall hedge along the front boundary they are screened to a significant extent. Consequently, they do not have a significant adverse effect on the character and appearance of the area in views from the road.
10. The proposed two storey house with its flat roof would not be in keeping with houses in the area that are characterised by pitched roofs. Together with the wide integral garage it would be a suburban form of house that would be out of keeping with the rural character of the area. Given its position set forward of Moseley House and closer to the road it would also be unduly prominent. The proposed development would therefore demonstrably harm the character and appearance of the area and not constitute good design, contrary to policies SWDP21 and SWDP 25.

Wildlife

11. The preliminary ecological assessment deemed that survey work in relation to bats and great crested newts, which are protected species, was necessary. The presence of protected species is a material consideration when determining development proposals. In cases where there are reasonable grounds to

suspect that protected species may be present, paragraph 99 of Circular 06/2005 *Biodiversity and Geological Conservation – Statutory Obligations And Their Impact Within The Planning System* emphasises the need to establish their presence or otherwise, and the extent to which they may be affected by a proposed development, before planning permission is granted.

12. In the absence of such survey work it is not possible to demonstrate whether there are any protected species that would be affected by the proposed development. In terms of whether this matter could be dealt with by condition, it is clear from the Circular and relevant legislation that, other than in exceptional circumstances, it is inappropriate to grant planning permission subject to a condition that a survey is carried out on the proviso that if protected species are found mitigation measures are identified and implemented. In my assessment, exceptional circumstances do not exist in this case.
13. In the absence of the surveys sought, the proposed development would be contrary to policy SWDP 22. This policy, consistent with the Framework, aims to conserve and, where possible, enhance biodiversity.

Highway safety

14. In the vicinity of the appeal site along Moseley Road the national speed limit applies. In terms of highway safety, it is therefore necessary that adequate visibility splays exist at the site access. This is in order that exiting vehicles may safely join the road without coming into conflict with oncoming vehicles. It is also necessary that sufficient turning space is provided on site so that vehicles may avoid reversing out onto the highway. In the absence of a speed survey outside the property to identify the necessary visibility splays and lack of details of parking and turning space proposed, I am not persuaded that safe access and egress would be provided to the proposed development. It would therefore be contrary to policies SWDP 4 and 21 which between them seek safe access and adequate parking related requirements.

Other matters

Previously developed land

15. The National Planning Policy Framework ('the Framework') is an important material consideration. A core planning principle of the Framework is to encourage the effective use of land for development by reusing land that has been previously developed, provided that it is not of high environmental value. The recent judgement in *Dartford BC v SSCLG* has confirmed that private residential gardens that are not located in built up areas, for example on the edge of villages or in the open countryside, as with the appeal site, are not excluded from the definition of previously developed land. The site therefore constitutes previously developed land. The SWDP refers to such land as brownfield land.
16. However, the site is not accessible and it has not been shown that the effect of the proposal on wildlife would be environmentally acceptable. Consequently, it would be contrary to policy SWDP 2 A (iv) and the policy in relation to the effective use of land, policy SWDP 13, which explains in its justified reasoning under what circumstances the re-use of brownfield land would be encouraged.

Trees

17. Other than the hedge along the front boundary there appeared only to be a few small trees of low amenity value approximately 4m high to the rear of the outbuildings on the appeal site. Subject to measures to protect the hedgerow during construction, I therefore find that the loss of the few small trees on the site to facilitate the development would not materially harm the character and appearance of the area. As a result, it would comply with policy SWDP 21 and SWDP 22 which seek to prevent such harm.

Living conditions

18. There would be no harm to the living conditions of neighbours as a result of the proposed development. However, the absence of harm is not a consideration that attracts positive weight in favour of the proposal.

Conclusion

19. The proposal is contrary to the development plan because it would be contrary to the spatial strategy for the area, does not offer genuinely sustainable transport choices, and is poorly designed. Furthermore, it has not been demonstrated that highway safety or wildlife would not be harmed. The conflict with the development plan and harm caused would be considerable and would not be outweighed by the status of the land as previously developed land. Material considerations therefore do not indicate that the proposal should be determined other than in accordance with the development plan. The appeal should therefore be dismissed.

Ian Radcliffe

Inspector