



Appeal Decision

Site visit made on 19 February 2019

by JP Tudor Solicitor (non-practising)

an Inspector appointed by the Secretary of State

Decision date: 15 March 2019

Appeal Ref: APP/J1860/W/18/3215248

Arosfa, Upper Welland Road, Malvern WR14 4JU

- 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 Mr Richard Ditchburn against the decision of Malvern Hills District Council.
 - The application Ref 17/01936/FUL, dated 26 November 2017, was refused by notice dated 15 May 2018.
 - The development proposed is a new dwelling including access of Upper Welland Road.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I have taken the description of development in the banner heading above from the Council's decision notice. It more simply and succinctly describes the proposal than the lengthy description contained in the planning application form, which includes phrases which are not acts of development and relate more to the alleged merits of the proposal.
3. The Secretary of State has considered the appeal in accordance with Regulation 14 (1) of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (SI 571/2017). It was concluded that Environmental Impact Assessment was not required. The relevant screening direction was issued to the Council and copied to the appellant.
4. A revised version of the National Planning Policy Framework (the Framework) was published on 24 July 2018, after the Council had determined the application. The parties have had the opportunity to comment on any relevant changes during the course of the appeal.
5. The revised Framework was updated on 19 February 2019, although the changes are relatively minor. On that date, the Government also published Housing Delivery Test (HDT) results for local authorities in England. The Council maintains that it can demonstrate a robust 5-year housing land supply (HLS), which has not been disputed by the appellant. Moreover, the HDT results indicate that Malvern Hills (as measured jointly with Worcester and Wychavon) has met the HDT. In the circumstances, it is not necessary to revert to the parties further on those matters. I am required to consider the appeal on the basis of the current Framework.

Main Issues

6. The main issues are:

- whether the development would be in a suitable location;
- the effect of the development on the character and appearance of the area, including the Malvern Hills Area of Outstanding Natural Beauty (AONB); and,
- the effect of the development on the setting of the adjacent Malvern Wells Conservation Area (CA).

Reasons

Suitability of location

7. The appeal site comprises an area of land to the side of a detached bungalow, known as Arosfa. It is located on the southern side of Upper Welland Road, adjacent to the host property and a short line of detached dwellings to the northwest whilst it is bounded by a field to the south east. There is woodland to the rear and some residential dwellings immediately opposite on the other side of the road, including one under construction. The site lies within the AONB and is adjacent to the boundary of the CA to the north.
8. Policy SWDP 2 of the South Worcestershire Development Plan (SWDP)¹ sets out the development strategy and settlement hierarchy for the area. Its development strategy and the site allocations within the SWDP are based upon a number of principles, including seeking to focus most development on urban areas, where both housing needs and accessibility to lower-cost public services are greatest, and to safeguard and, wherever possible, enhance the open countryside, whilst also reducing the need to travel by car to access a range of services and facilities.
9. Windfall development proposals, that is proposals which are not on sites allocated for development within the SWDP, are to be assessed in accordance with a settlement hierarchy. That hierarchy is based on an assessment of the relative size and functions of each city, town and village, the facilities they offer and their capacity for growth. The SWDP uses settlement or development boundaries to define the extent of such settlements within which development is more likely to be acceptable, although still subject to assessment against other SWDP policies, an approach specifically endorsed by the Inspector who independently examined the SWDP prior to its adoption.
10. As the appeal site is outside any development boundary it is, according to part C of SWDP policy SWDP 2, in the open countryside where development is strictly controlled and limited to certain exceptions, such as dwellings for rural workers or replacement dwellings. The proposal does not fall within any of the relevant exception categories. Therefore, it would conflict with SWDP policy SWDP 2, which forms part of an evidence-based strategy designed to distribute development appropriately across the area.
11. The appellant refers to two planning permissions, refs: 16/00123/FUL and 17/00062/FUL for dwellings on plots opposite the appeal site, which are also outside, albeit adjacent to, the development boundary. Although the appellant suggests various similarities with the appeal proposal, including in relation to

¹ Adopted February 2016

the other main issues discussed below, the Council advises that in both examples cited, there were extant planning permissions for dwellings which were capable of being implemented, and therefore represented realistic fall-back positions. Those extant permissions, which were considered significant material considerations, were granted before the adoption of the SWDP at a time when the Council was unable to demonstrate a 5-year HLS, which would have brought the 'tilted balance' then contained in paragraph 14 (now paragraph 11) of the Framework into play.

12. Therefore, despite their proximity to the appeal site and some similarities, there are significant material differences between the background and circumstances that led to those schemes being approved and the appeal proposal before me. Consequently, I give them limited weight. In any event, all proposals and appeals must be judged on their individual merits against planning policies and material considerations relevant at the time. I have considered this appeal on that basis.
13. The Council has also drawn my attention to comments in the report of the Inspector who examined the SWDP who considers that the development boundaries '*provide necessary certainty so that users of the Plan can understand what is likely to be permissible in any given location*'. Given that the SWDP went through a process of public examination and was independently examined for consistency with the Framework and the Planning Practice Guidance, prior to its recent adoption in 2016, allowing a proposal that is in clear conflict with it risks undermining its strategic approach. Although the proposal is restricted to one dwelling and there are some services and facilities nearby, allowing the development could set a precedent for other sporadic development near or adjacent to development boundaries that could cumulatively erode and urbanise the open countryside.
14. Therefore, I conclude that the proposed development would not be in a suitable location and would harm the Council's strategic approach to the distribution of development and aim of protecting the open countryside. It would conflict with policy SWDP 2 of the SWDP, which sets out the development strategy, which is integral to the overall sustainability objectives of the development plan.

Character and appearance and effect on the AONB

15. The bungalow at Arosfa is one of a small group of houses which front onto the road. The land to the side where the new bungalow would be built is sizeable and is separated from the road by hedgerow. Next to it is an agricultural field, where a few horses were grazing at the time of my site visit. The field and hedge continue along the roadside, as the land slopes down the hill for about 200 metres before the next set of houses on that side. Therefore, the character of that immediate area, including the appeal site, is open, undeveloped and semi-rural with woodland and the Malvern Hills beyond. The proposed dwelling, notwithstanding its setback from the road, would impinge on that predominantly open, semi-rural setting.
16. Although the dwelling would be a dormer bungalow and there would be houses in the backdrop in some views, as the land rises up the hill towards the north west, and given the relatively low hedgerow boundary, it would appear prominent. The stark, windowless gable ends of its south east elevation would be noticeable and its sprawling 6-bedroom footprint, extensive roofscape and

multiple wings would appear at odds with the relatively compact, modest design of Arosfa and other dwellings in the short row to the north west.

17. Paragraph 172 of the Framework advises that: '*Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty.*' Given that the site is within the Malvern Hills AONB, the scale, form, design and location of the bungalow would harm the openness and character of the immediate area and thereby the AONB. Although the proposal is for one relatively low-level dwelling, the AONB Management Plan, expresses concern about the cumulative impact of small developments on the natural beauty of the AONB.
18. The above factors lead me to conclude that the proposed development would harm the character and appearance of the area and the AONB. Consequently, the proposal would be contrary to policies SWDP 21, SWDP 23 and SWDP 25 of the SWDP which seek to ensure that development is of high-quality design, integrates effectively with its surroundings and avoids detrimental impacts on the natural beauty of the AONB and landscape character.

Setting of the Malvern Wells CA

19. The appeal site is outside but adjacent to the CA which is on the northern side of this part of Upper Welland Road. The Council advises that the area of land was added to the CA in 1995, with the intention of protecting an area of open space running parallel to the road to provide a continuous green visual link between the hills and the open countryside.
20. Paragraph 194 of the Framework advises that: '*Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting) should require clear and convincing justification.*' The setting of a heritage asset, such as the CA, is defined in the Glossary to the Framework as: '*The surroundings in which a heritage asset is experienced.... Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.*'
21. I am also mindful of Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 which requires that decision makers pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area.
22. The proposed development would be visible in views from Upper Welland Road and could be seen from the CA. However, given that the CA itself features some built development, including a new property under construction, and there are already dwellings to the northwest, I do not consider that the proposal would harm the setting of this part of the CA or the significance of the CA as a whole. Therefore, it would not breach SWDP policy SWDP 24 or relevant parts of the Framework which seek to protect the significance of heritage assets.

Planning Balance and Conclusion

23. The provision of a new dwelling would offer some economic benefits in the provision of short-term employment during construction and relating to the purchase of building materials. Future occupiers would also contribute to the local economy. Socially, occupiers may participate in the community and

contribute towards the viability of local services and facilities. The bungalow would also add to the supply of housing, although the Council advises that it can already demonstrate a robust 5-year HLS, recently assessed at 6.57 years. In any event, as the scheme consists of one dwelling the benefits would be relatively limited.

24. I have not found harm to the setting of the CA. However, the harm identified in relation to the location of the development in the open countryside and the negative effect on the character and appearance of the area, including the AONB, outweigh the limited benefits of the proposal.
25. Accordingly, for the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

JP Tudor

INSPECTOR