



Appeal Decision

Site visit made on 8 July 2019

by Ben Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd July 2019

Appeal Ref: APP/J1860/W/19/3220942

Lilac Cottage, Camp Lane, Shelsley Beauchamp WR6 6RL

- 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 James Allen against the decision of Malvern Hills District Council.
 - The application Ref 18/01270/FUL, dated 22 October 2018, was refused by notice dated 17 December 2018.
 - The development proposed is "Retrospective change of use of 200 sq metres of woodland to domestic garden, plus erection of 2-storey, 3 bedroom extension to the existing property. The section of woodland to the South of the current property was incorporated in to the garden when the current property was completed in December 2001. The remaining 2000 sq metres of woodland purchased along with the site/garden has been retained as woodland. The proposed extension utilises approximately 20 - 25 square metres of the land included within the change of use".
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - the effect of the proposal on the character and appearance of the area, and
 - the effect of the proposal on local biodiversity, with particular regard to the Cockshot, Rodge, Pudford, Walsgrove Hills Local Nature Reserve – Local Wildlife Site (LWS).

Reasons

Character and appearance

3. The dwelling sits on a sloping site in a relatively isolated location. The site is at the end of a short row of individually designed dwellings and offers wide views of the valley to the west from a high vantage. The dwelling is a contemporary design and includes timber cladding and a first-floor deck at the rear. Access is gained from the front at first floor, access to the rear garden is from its ground floor. The property is within a relatively spacious plot. The frontage is visible from the Worcester Way public right of way, which passes in front of the property. The appeal site makes a positive contribution to the character and appearance of the area.

4. The proposal includes a two-storey side extension, with a first-floor connecting to the main dwelling over a bridge link. However, the proposal would not be a considerably smaller footprint or read as an ancillary structure, due to its mass. Therefore, whilst the proposal meets the Council's design guide¹ in terms of roof height, roof pitch, eaves detail, window arrangement and materials the proposal would nevertheless not accord with the guide in regard to bulk and proportionality. Therefore, whilst the proposal would have a lower ridge height it would dominate the original dwelling. Consequently, this would not be subordinate to the host dwelling. Accordingly, although the proposed extension would reflect materials and design features from the main house, it would be of a scale that would be substantial in width and bulk. This would dominate the host dwelling and fail to complement existing development on site.
5. Furthermore, the scale of the proposal would be emphasised due to it being separate from the main dwelling and connected only by a first-floor link. Consequently, whilst some of the proposal would be within the hill side, a significant proportion would be visible and overt from the public realm. The mass would be a combination of the extension and the link. It is unconvincing that the proposal would retain the character and dominance of the main dwelling. It would occupy much of the space between the dwelling and the woodland and substantially increase the proportion of built form on the site. Therefore, due to its scale and extensive proportions, the proposal would not reflect the scale of the existing dwelling and would be of substantial harm to the character and appearance of the area.
6. Consequently, the proposed extension would not accord with policies SWDP21 and SWDP25 of the South Worcestershire Development Plan 2016 (DP) which seek amongst other things for development to be high quality design, integrate effectively with its surroundings and the character of the surrounding landscape. Furthermore, the proposal would be contrary to the Council's design guide which requires extensions to be proportionate to the host dwelling. Also, the proposal would not accord with the National Planning Policy Framework (The Framework), which seeks amongst other things for development to achieve well designed places and be sympathetic to the local character.

Effect on local biodiversity

7. The southern part of the appeal site, the parcel of land proposed to become residential curtilage, is within the LWS. The LWS largely comprises of native broadleaved woodland with mixed and yew woodland and provides part of the habitat for a range of species including two bat species and a polecat. The LWS, further continues to the south and west of the site and is hilly and heavily wooded. The southern part of the appeal site is mown lawn on a relatively steep gradient. Some plants and tree stumps are within this area. It has the appearance of a domesticated area of garden, but its ecological value is unknown. An ecological and protected species survey would be required to determine the impact of the proposal on local species and habitats.
8. The Framework seeks decisions to contribute to and enhance the natural environment by minimising impacts on biodiversity and refusing development that would cause significant harm. Policy SWDP 22 of the DP states that development within a Local Wildlife Site will only be permitted if the need for, and the benefits of, the proposed development outweigh the loss. To weigh

¹ South Worcestershire Design Guide SPD 2018

these various interests, it is essential to ascribe value to the ecological components on the site to then value any harm or required mitigation.

9. The submission has been made without a Preliminary Ecological Assessment (PEA), although ecological benefits have been offered in the form of a bat box. However, it is unknown whether this benefit would be appropriate and/or necessary to off-set any loss. The proposal would face away from the LWS, reducing impacts such as light pollution, and it includes a foundation design that would protect local tree root systems. However, the proposal can only speculate as to the required mitigation required by the development without a PEA. This also is relevant in the consideration of conditions, to control both light spill and external illuminations, such mitigation may be insufficient or unnecessary without the benefit of a PEA.
10. Therefore, the evidence in support of the proposed change of use and extension has failed to illustrate that it would not harm the designated Local Wildlife Site. This would therefore be contrary to policy SWDP22 D of the DP which states that development which would compromise the favourable conservation status of Local Wildlife Sites will only be permitted if its benefits outweigh the loss. Furthermore, the proposal would not accord with objectives of the Framework which requires development to contribute to and enhance the natural environment.

Other Matters

11. Submitted evidence from the appellant includes photographs and a receipt for the installation of an oil tank within the appeal site. This is intended to illustrate that the residential use is lawful. However, this evidence has only a limited bearing on the merits of the proposal as there is no fall-back position without the benefit of a Lawful Development Certificate.
12. The benefits of not effecting the living conditions of adjacent neighbours would not outweigh the conflict with the identified policies. An absence of harm in this respect can only be considered as a neutral factor in the planning balance. This therefore does not indicate that a decision should be made other than in accordance with the development plan.

Conclusion

13. The Framework identifies three strands of sustainable development. The proposal would provide some construction jobs with ongoing maintenance and servicing. Also, the expanded family home would be of benefit to the general supply of expanded housing in the area. However, these benefits would be of limited weight in comparison to the objectives of the Framework as a whole and would not outweigh the harm found to the character and appearance of the area and to the LWS.
14. For the above reasons, and having had regard to all submitted evidence, the appeal is dismissed.

Ben Plenty

INSPECTOR