
Appeal Decision

Site visit made on 22 October 2019

by Paul Thompson DipTRP MAUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th November 2019

Appeal Ref: APP/H1840/W/19/3233314

Rear 41 and 42 Evesham Road, Norton WR11 4TL

- 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 Ian Osborne against the decision of Wychavon District Council.
 - The application Ref 19/00129/FUL, dated 16 January 2019, was refused by notice dated 29 April 2019.
 - The development proposed is a new single storey house.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:-
 - whether the site would be a suitable location for housing, having regard to the development plan;
 - the effect of the proposed development on the character and appearance of the settlement, the surrounding landscape and the setting of the Norton Conservation Area;
 - the effect of the proposed development on the setting of the listed buildings situated at 41 and 42 Evesham Road; and
 - the effect of the proposed development on highway safety.

Reasons

Location of the development

3. Policy SWDP 2 of the South Worcestershire Development Plan, Adopted February 2016 (SWDP) establishes the development strategy for the District. The aim is to focus most development on the urban areas, where both housing needs and accessibility to lower-cost public services are greatest. Part B of the policy supports windfall development as infill within the defined settlement boundaries, using the hierarchy of settlements in the policy. Meanwhile, Part C of the policy refers to development within the open countryside, which it suggests will be strictly controlled and limited to particular types of development to support the rural economy, meet affordable housing need or provide housing for rural workers, buildings for agriculture and forestry, house

extensions, replacement dwellings and buildings, and to provide renewable energy.

4. For the purposes of planning policy, the appeal site is situated beyond the settlement boundary of Norton, so is located within the open countryside. The appeal scheme is not for any of the types of development in the countryside that are considered acceptable by development plan policies in such locations.
5. For the reasons outlined above, I conclude that the proposed development would be contrary to the Council's development strategy in policy SWDP 2 of the SWDP, as it would encompass housing outside the settlement boundary for Norton.

Character and appearance of the settlement, the surrounding landscape and the setting of the Norton Conservation Area

6. The appeal site is located to the western side of Evesham Road. The access track serving the site is within the Norton Conservation Area (the Conservation Area) and the main part of the site is situated adjacent to its boundary. The significance of the Conservation Area lies, at least in part, in the positive contribution made by the linear historic street pattern and the architectural quality of built development primarily located along the street frontage.
7. From what I observed, there is a clear pattern of frontage development arranged to either side of the road. However, there are instances of dwellings behind the street frontage, with more recent infill development within the settlement boundary, including 'The Cedar House' and 'Fair Acre' a short distance to the south of the site, and across the road in a cluster around Ashmores Farm.
8. The visibility of development behind the street frontage varies due to the position of planting and other built development, including along access drives. Nonetheless, the enclosure of the boundaries to the gardens of existing houses by mature hedge planting provides a verdant backdrop to development within the settlement and Conservation Area and a transition to the countryside edge. This ensures that the countryside is clearly distinguishable from gardens. Taken together these stated features make a significantly positive contribution to the character and appearance of the settlement, the surrounding landscape and the setting of the Conservation Area.
9. The proposed house would be situated at the end of an existing access track leading from Evesham Road, which it would front onto. Given the low-rise nature of the proposed development, neighbouring dwellings and mature planting within the vicinity of the site would be likely to intervene in views from the public realm. The proposed development would therefore not in itself be distinguishable from existing similar development. Furthermore, the contemporary design of the proposed house, would have an appearance similar to 'The Cedar House' and would incorporate a pleasant balance between horizontal and vertical elements of its composition. The palette of proposed materials and use of a sedum roof would also be sympathetic to its immediate rural context. As such, the proposal would have a neutral effect on the appearance of the settlement and the surrounding landscape.
10. Despite its design and size in relation to the site, the proposal would be some distance from the street frontage, beyond the established boundaries of

existing houses and would not represent infill development. As such, the proposal would appear discordant in relation to the established grain of development described above. It would also represent a harmful intrusion into the countryside that would substantially reduce the effect of the verdant backdrop to existing development within the settlement and Conservation Area. The proposed development would therefore have a significantly detrimental effect on the character of the settlement and the surrounding landscape, and the setting of the Conservation Area.

11. I appreciate that the gardens of 'The Cedar House' and 'Fair Acre' reach the furthest extent of the appeal site, but it is not uncommon for gardens to project beyond the settlement boundary. This would not therefore justify the harm that I have identified that would result from the proposal. Furthermore, unlike the Inspector for the appeal for 'The Cedar House'¹, the appeal proposal would not be clear of the rear of the existing line of development fronting Evesham Road and would have a harmful effect on the setting of the Conservation Area.
12. For the reasons outlined above, I conclude that the proposed development would have an unacceptably harmful effect on the character of the settlement and the surrounding landscape, and the setting of the Conservation Area. Hence, the proposal would not accord with policies SWDP 2, SWDP 6, SWDP 21, SWDP 24 and SWDP 25 of the SWDP. Together these policies expect development to be of a high design quality, which integrates effectively with its surroundings and complements the character of the area and the landscape setting. Proposals should also safeguard the open countryside and conserve and enhance heritage assets, including their setting. Their contribution to the character of the landscape or townscape should also be protected in order to sustain the historic quality, sense of place and environmental quality of south Worcestershire.
13. The proposal would also conflict with paragraphs 127, 192 and 194 of the National Planning Policy Framework (the Framework), as it would not be sympathetic to local character and history, including the surrounding built environment and landscape setting; and would fail to sustain or enhance the setting, and thereby the significance of, the designated heritage asset, which can be harmed or lost through development within its setting.

Setting of listed buildings

14. The houses at 41 and 42 Evesham Road are listed grade II (as 41, 42, 43 and 44) for their historic and architectural interest. Their significance lies in their timber framed construction, originating from the seventeenth century, and their relationship within their curtilages and the wider Conservation Area. This contributes to the setting of these buildings and several other listed buildings at Nos 34-36 and 37-38, which are also listed grade II. All of these listed buildings are arranged to the frontage of the road.
15. I note that the design of the proposed single-storey house would be of a modern construction similar to 'The Cedar House' and the garage has been separated to further reduce its scale and link to the form of outbuildings found nearby. However, it would be within the setting of the listed buildings.

¹ Appeal Ref: APP/H1840/W/15/3135955 – Rear of 48 Evesham Road.

16. Moreover, given that the gardens of the listed buildings extend up to the appeal site, there are clear views of them from the site. Although 'The Cedar House' is technically closer and Fair Acre is a two-storey house, unlike the appeal proposal they are not to the rear of Nos 41 and 42. Therefore, notwithstanding its scale, the proposed house would still be seen from Nos 41 and 42 as enclosing their rear gardens and the gap between these historic properties and the countryside beyond.
17. The use of an alternative access during construction would address the potential for damage to Nos 36 and 37, either side of the access track, but would not address the harm to the setting of Nos 41 and 42.
18. Therefore, for the reasons outlined above, I conclude that the proposed development would have a harmful impact on the setting of the listed buildings situated at Nos 41 and 42, and thereby the significance of these designated heritage assets. Hence, the proposal would not accord with policies SWDP 6 and SWDP 24 of the SWDP. In addition, the proposal would not accord with paragraphs 192 and 194 of the Framework.

Highway safety

19. The site would be accessed by the existing unmade track from Evesham Road, which is long, narrow and winding, including a sharp left-hand bend which leads to the rear of neighbouring gardens toward the entrance of the main part of the site.
20. The house at 37 Evesham Road is positioned directly alongside the access track and the footpath alongside the road. This obscures visibility for vehicles exiting to the south. Visibility to the north would be unimpeded but relies on views across the open frontage of Nos 35 and 36. That land does not appear to be in the appellant's control so could not be relied upon in perpetuity.
21. Vehicles would therefore be likely to emerge from the access unsighted onto the footpath and be required to wait stationary in order to enter the carriageway. This would be an inconvenience and safety risk for users of the footpath due to unsighted movements, obstruction of the footpath and the potential requirement for them to enter the carriageway to navigate around any stationary vehicles.
22. The restricted width of the track would also make access difficult for deliveries and other longer vehicles which would be unable to negotiate the bend in the track. There is also insufficient space for vehicles to pass one another travelling in opposite directions. In these circumstances, it is likely that vehicles would be required to reverse out into Evesham Road. Similarly, due to its narrowness and the absence of lighting, the track would also not be ideal for pedestrians accessing the site as their safety would be compromised by the increased vehicular use, with little room for a pedestrian refuge from larger vehicles for most of its length.
23. I appreciate that the appellant has rights of access to the site and occupiers of existing properties served by the track may be required to use it for access and parking of their vehicles. However, the proposal would lead to the permanent intensification of the use of the access by the occupants of a further dwelling, as well as from services and deliveries. Moreover, although only one house is proposed there would be up to four bedrooms, which could lead to a

considerable increase in the use of the access, supplementing its previous use for agricultural purposes, and the highway safety risks associated with it.

24. Whilst I have not been made aware of any accident history associated with the access, the absence of such evidence does not mean that accidents would not occur in the future. In particular, at the time of my visit I noted that Evesham Road was reasonably well-trafficked.
25. Given the space available within the site, the arrangements for the parking and manoeuvring of vehicles would be unlikely to affect the highway safety of other users of the access track. Therefore, the layout of parking could be agreed by a suitably worded planning condition to ensure it is appropriate to serve the proposed house. In addition, although the arrangements for the collection of refuse from the street frontage and the use of an alternative route of access to the site for construction traffic could also be addressed by planning condition, this would not address the implications of the use of the access track by other vehicles associated with the occupation of the proposed house.
26. For the reasons outlined above, despite my finding in relation to the proposed parking arrangements, I conclude that the proposed development would have a significantly detrimental effect on highway safety. Hence, the proposal would not accord with policy SWDP 4 of the SWDP, in this regard, and paragraphs 108 and 109 of the Framework, which seek to ensure that proposals demonstrate that safe and suitable access can be achieved for all users.

Other Matters

27. I have been referred to several decisions made by the Council in respect of new houses to the south of the site, but the circumstances behind these decisions are not before me. This would not therefore be a compelling reason to allow development that I have adjudged to be harmful. Similarly, I note the appellant's comments on the pre-application advice received from the Highway Authority and Council and communication regarding areas of concern. Pre-application advice is not binding and I am not aware of the information upon which that advice was offered. Therefore, the approach to the Council's decision-making is not a matter for me to consider as part of this appeal. Nonetheless, I have reached my own conclusion on the appeal proposal based on the policies and evidence before me.

Planning Balance

28. Policy SWDP 2 of the SWDP does not set a limit on the level of housing growth in rural areas, instead it seeks to direct housing to locations where it is supported by local facilities and services through an established development strategy. The policy also refers to safeguarding and, wherever possible, enhancing the open countryside which is generally consistent with the Framework's aims of securing good, contextually appropriate design and recognising the intrinsic character and beauty of the countryside. Moreover, existing properties behind frontage development are largely within the settlement and residential gardens of properties within the settlement are consistently found beyond the settlement boundary. Therefore, the conflict of the proposal with the policy warrants significant weight.

29. In light of this, I have taken a different view with regard to the location of the development to the Inspectors for the appeals at Harvington Lane² and Evesham Road in Norton³, and Church Lane in Whittington⁴, as I have had to balance other considerations. In particular, the Inspectors were not required to find against the policy in respect of character and appearance or the setting of designated heritage assets.
30. The harm that I have identified to the significance of the Conservation Area that would result from the proposal would be localised and therefore the effect on the Conservation Area as a whole is less than substantial. It would nonetheless represent an erosion of the Conservation Area's distinctive character. Furthermore, the harm to the significance of 41 and 42 Evesham Road, as listed buildings, would also be less than substantial. In circumstances where there is less than substantial harm to the significance of designated heritage assets, paragraph 196 of the Framework identifies that harm should be weighed against the public benefits of the proposal.
31. The proposal would benefit the local economy through employment and the procurement of materials during the construction period and expenditure by occupants of the proposed house. However, only one additional house would be provided, such that these benefits would be limited in scale and kind, and consequently carry moderate weight in favour of the proposal.
32. I also recognise that the proposed house would contribute to the supply of housing in the District. However, as the Council has in excess of five years supply of deliverable housing, this would be afforded limited weight as a benefit of the proposal. Whilst this same approach could apply to windfall sites throughout the District, this is not a matter for me to consider as part of this appeal and I have reached my own conclusion on the appeal proposals based on the policies and evidence before me.
33. The statutory duties in Section 66(1) and Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 are a matter of considerable importance and weight. The proposal would have a negative effect on the significance of designated heritage assets and would result in less than substantial harm. There would be little public benefit arising from the proposal to offset the identified harm to which I must attach considerable importance and weight.
34. The accessibility of the site would not conflict with policy SWDP 4 of the SWDP, as the occupants of the proposed house would not be any more likely to rely upon private motorised vehicles as a means of transport than existing residents of the settlement. However, the proposal would have a significantly detrimental effect on highway safety contrary to the policy. Therefore, the conflict of the proposal with the policy in this regard, warrants significant weight.
35. Having regard to the above, I consider the significant harm to the character of the settlement and the surrounding landscape, the setting of the Conservation Area and listed buildings at 41 and 42 Evesham Road, and to highway safety would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. There is nothing to

² Appeal Ref: APP/H1840/A/14/2213555 – Harvington Lane, Norton.

³ Appeal Ref: APP/H1840/A/14/2213028 – Land to the rear of Church Walk, Evesham Road, Norton.

⁴ APP/H1840/W/17/3180996 – Buildings and land off Church Lane, Whittington.

justify a conclusion that the proposal should be considered other than in accordance with the development plan.

Conclusion

36. The proposed development would be contrary to the development plan and there are no other considerations, including the Framework, which outweigh this finding. Accordingly, for the reasons given, the appeal does not succeed.

Paul Thompson

INSPECTOR