



Appeal Decision

Site visit made on 4 August 2020

by L Page BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th August 2020

Appeal Ref: APP/H1840/W/20/3251918

Hill Cottage, Tyddesley Wood Lane, Pershore WR10 3BY

- 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 Andrew Maxted against the decision of Wychavon District Council.
 - The application Ref 20/00012/OUT, dated 4 March 2020, was refused by notice dated 8 April 2020.
 - The development proposed is the demolition of existing garage and the erection of a single storey dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The application was submitted in outline form with all matters of access, appearance, landscaping, layout and scale reserved for future approval(s). From the description of development, it is clear that the quantum of development being sought is for one dwelling. The appeal has been dealt with on this basis, treating the submitted site plans as illustrative only, in so far as they indicate a possible layout up to the maximum stated quantum.
3. The description of development in the banner heading above has been taken from the Council's decision notice, on the basis that it accurately and clearly describes the development and omits phrases which address the purpose or merits of the case. The appeal has been dealt with accordingly.

Main Issues

4. The main issues are:
 - (a) whether the proposed development is a separate dwelling and acceptable in an open countryside location;
 - (b) the proposal's effect on access and highway safety; and
 - (c) the proposal's effect on protected species and habitats.

Reasons

Development Form and Location

5. The development plan for the area includes South Worcestershire Development Plan 2016 (SWDP). In accordance with the Policies Map of the SWDP, it is clear that the site lies beyond any defined development boundary.

6. Accordingly, the site is located within the open countryside for the purposes of the SWDP. Policy SWDP2 states that development in such locations will be strictly controlled; limited to dwellings for rural workers, employment development in rural areas, rural exception sites, buildings for agriculture and forestry, replacement dwellings, house extensions, replacement buildings and renewable energy projects and development specifically permitted by other SWDP policies. The site is not allocated for development and the appellant has not put forward evidence establishing how the proposal might accord with this Policy or otherwise be potentially acceptable in an open countryside location. Consequently, it would appear in conflict with the development strategy of the SWDP.
7. Reference is made to an allocation within the SWDP Review (SWDPR) Preferred Options 2019 and the Policies Map therein, which is shown to partly envelope the site, albeit that the site is not within it. In accordance with Policy SWDP2, the boundary to sites allocated for development outside and adjoining an existing settlement boundary will form the basis of an extension to the existing development boundary.
8. However, the SWDPR is in the very early stages of preparation and until it has been subject to examination and passed the tests of soundness the policies and allocations within it carry only limited weight. Ultimately, the allocation in question could fail the tests of soundness during examination and result in a modified SWDPR. Consequently, any assessment against it would be premature and cannot be relied upon under this appeal.
9. The appellant contends that Desjardens Way and the community centre are outside of the development boundary. Even if this were the case, it would not render the proposal acceptable in its own right, which would still be located in the open countryside and conflict with the development strategy of the SWDP.
10. The appellant's statement suggests the proposal is ancillary development (an annex) to the main dwelling for elderly relatives and that this helps justify the proposal. However, such references are only made in passing. It has not been made sufficiently clear that the development would be ancillary or that this is in effect what is intended and its most likely use.
11. For example, there is no evidence explaining the extent to which occupants would live as part of the main dwelling or if there would be any shared facilities that would point to a level of subservience so as to be fundamentally ancillary and avoid intensification of the site. Even though the application is in outline with all matters reserved, the configuration as described by the appellant is for separate access, parking and garden space indicative of standalone use. Based on the evidence, I consider the proposal would create a separate dwelling with little prospect of being used exclusively as an annex.
12. Overall, the proposal would introduce a separate dwelling in an open countryside location in conflict with Policies SWDP1 and SWDP2 of the SWDP which among other things establish the development strategy for the area, safeguard and (wherever possible) enhance the open countryside.

Access and Highway Safety

13. The site is accessed off of Tyddesley Wood Lane, a narrow highway suitable for single vehicle use at any one time. It is also a bridleway, and so non-vehicular traffic is also likely to use it to access the wider public rights of way network in the vicinity. Tyddesley Wood Lane connects with the A4104 Defford Road, the junction of which has a speed limit of 50mph before reducing to 30mph some distance further north. It serves a number of existing dwellings and is said to be suitable for large refuse vehicles.
14. There is a well-established approach to assessing junction safety that involves an objective assessment of vehicle speeds in conjunction with diagrammatic measurements, which include set parameters such as visibility splays taken 2.4m back from the edge of the carriageway. Even though there may be some notional desktop information contending that the junction is safe, the appellant has not submitted sufficient evidence pertaining to vehicle speeds or the correct diagrammatic measurements to determine whether access can achieve the recommended visibility splays for safe ingress and egress. Furthermore, without this information, it is not possible to determine whether the visibility splays would cross land outside of the appellant's control, and therefore if they could be improved (if required to meet the necessary standards) or adequately retained in perpetuity thereafter.
15. The proposal may be able to provide sufficient onsite parking, and there may also be a low accident record in the area, however, developing a separate dwelling at the site is likely generate additional comings and goings, intensifying the use of Tyddesley Wood Lane over and above that generated by existing dwellings. This could potentially cause additional conflicts with existing users, such as refuse vehicles and non-vehicular traffic using the bridleway. Due to the relatively high posted speed limit associated with the adjoining highway, the risks associated with entering and exiting the site and the consequences of any conflict would be amplified, harming highway safety. Therefore, it is reasonable that the visibility splay information is sought, and in its absence no reliable conclusions on the acceptability of the access can be drawn.
16. The appellant contends that the Council has labelled the lane incorrectly. Irrespective of whether this is the case or not, the visibility splay information would still be necessary. Similarly, the appellant has referred to a planning application for a community centre and contends the volume of traffic generated by a dwelling would be lesser and therefore acceptable. However, it is unclear what evidence was submitted in support of that planning application or whether the access was specifically engineered to achieve visibility splay requirements. In any event, the existence of an acceptable access elsewhere in the vicinity does not absolve the appellant of the requirement to demonstrate that the access in this case is also acceptable.
17. Overall, the proposal would harm access and highway safety. It is therefore in conflict with Policy SWDP21 of the SWDP, which among other things seeks to protect the safe function of the highway network.

Protected Species and Habitats

18. The site comprises residential garden space associated with Hill Cottage and is on the periphery of an existing urban landscape and adjacent to an otherwise rural landscape within the open countryside. The proposal also includes the demolition of an outbuilding.
19. Consequently, a Preliminary Ecological Appraisal with Preliminary Roost Assessment were submitted as evidence. It determined that based on the survey area the proposal would not give rise to unacceptable effects on protected species or habitats. These findings were accepted by the Council. However, subsequent to these assessments, it has been found that an adjacent pond suitable for Great Crested Newts exists on the site of the neighbouring property of Windrush. This habitat was not originally identified in the survey data or subsequently assessed.
20. It would appear the original assessment identified scrub land to the north of the site suitable as secondary sheltering habitat Great Crested Newts. In the absence of primary habitat, as originally concluded, this may not have been cause for concern. However, now that primary habitat has potentially been identified to the south, and if Great Crested Newts are present, it is unclear how the proposal may otherwise affect connectivity with the secondary sheltering habitat, even if the majority of the site is unsuitable grassland. Consequently, it will not be possible to ascertain the likely impact on the protected species. The appellant has subsequently suggested that a method statement would be appropriate in lieu of such evidence. However, it is necessary to first ascertain baseline conditions and to understand whether any impact from the proposal could be mitigated, and therefore whether the proposal is fundamentally acceptable in this context.
21. I understand that the appellant has contacted the occupants of the neighbouring property with a view to gather additional survey data to assess, but this evidence is not currently available and has not been submitted for determination under this appeal. I am mindful of the guidance in Procedural Guide – Planning Appeals – England 2020 which states that when an appeal is made the appeal process should not be used to evolve a scheme and it is important that what is considered by the Inspector is essentially what was considered by the Council, and on which interested people's views were sought. Consequently, the appeal is determined on the evidence currently available.
22. Overall, it has not been demonstrated that the proposal would have an acceptable effect on protected species and habitats. It is therefore in conflict with SWDP 22 of the SWDP, which among other things seeks to avoid compromising favourable conservation status of protected species and habitats.

Other Matters

23. Woodman's Cottage is a Grade II listed building located adjacent to the site. Mature boundary treatment effectively separates the site from its setting, which is predominantly informed by existing development along Tyddesley Wood Lane at its frontage, in conjunction with rural landscape at its rear. Consequently, the limited extent of development would be unlikely to have an effect beyond the prevailing boundary treatment or on its setting.

24. The appellant contends the proposal would help improve personal circumstances involving elderly parents and finances. Whilst I have given these matters careful attention, I am mindful of the advice contained in Planning Practice Guidance that planning is concerned with land use in the public interest. It is also probable that the proposal would remain long after the current personal circumstances cease to be relevant. Accordingly, I have ascribed limited weight to these matters in my decision.
25. The appellant also contends they have evolved the proposal in consultation with neighbours and that they do not object. However, the absence of an objection does not in itself mean the proposal is acceptable. The appeal has been determined based on the development plan, material considerations and the evidence presented. Views of the site from the bridleway may be concealed and be less visible than Desjardens Way opposite, whilst removing the garage may improve the street scene. Nevertheless, these matters do not change the assessment of the main issues.

Conclusion

26. For the reasons given, the appeal is dismissed.

Liam Page

INSPECTOR