



Appeal Decision

Site visit made on 4 May 2022

by B J Sims BSc (Hons) CEng MICE MRTPI

an Inspector appointed by the Secretary of State

Decision date: Friday 10 June 2022

Appeal Ref: APP/J1860/W/22/3293934

Birch Hill House, Kingswood, Martley, Worcester, WR6 6PG

- 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 and Mrs Grahame Taylor against the decision of Malvern Hills District Council.
 - The application Ref 21/01786/FUL, dated 27 September 2021, was refused by notice dated 11 February 2022.
 - The development proposed is the erection of two holiday chalets.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of two holiday chalets on land at Birch Hill House, Kingswood, Martley, Worcester, WR6 6PG, in accordance with the terms of the application, Ref 21/01786/FUL, dated 27 September 2021, and the plans submitted with it and subject to the conditions set out in the Schedule appended to this decision.

Main Issue

2. The main issue is whether the proposed holiday chalets would have safe road access.

Reasons

3. The proposed chalets would be sited in open countryside where permanent residential accommodation would not generally be permitted but where Policy SWDP36 of the adopted South Worcestershire Development Plan (SWDP) provides for holiday chalets where they are unobtrusively related to their landscape setting. Policy SWDP21 requires all new development to be of a high quality of design.
4. The chalets would be set apart from the main dwelling at Birch Hill House and would be remote from any other built development and sufficiently distant from public rights of way or viewpoints and from the nearby Martley Rock to avoid harm to that geological feature or to wider visual amenity. The chalets would be screened by mature vegetation

- and there is potential for additional landscape planting, secured by planning condition. Their timber-clad construction and their general design, form and modest scale would be appropriate to this rural location. The development would therefore be acceptable in itself and compliant with Policies SWDP21 and SWDP36 regarding location and design.
5. The sole concern is the access route along Kingswood Lane from the B4197 just south of Martley. Both Policies SWDP21 and SWDP36, consistent with other local and national policies, also require the development to have safe and suitable access.
 6. The half-kilometre length of the Lane concerned is straight, with good forward visibility and only a small number of property entrances close to the B4197 junction. Concern arises from its restricted width of between 2.5m and 3.7m with no passing places.
 7. The Lane is unlit, including at its junction with the major road. There are relatively wide verges along much of the Lane and when I drove to visit the site I was able to pass a van parked off the carriageway. However, the verges are generally raised and do not readily accommodate a vehicle.
 8. Most holiday makers using the chalets would be likely to enter and leave the site by car and any who chose to walk would have some safe refuge on the verges or could use an alternative rural footpath. The main concern is the prospect of additional long reversing manoeuvres due to vehicles meeting head on, especially in the dark; and it would not be appropriate to rely upon private entrances for passing.
 9. However, the development would be low-key in nature and the likelihood of such occurrences needs to be viewed in relation to the overall level of use of the Lane. In the unchallenged evidence of the Appellants, the accommodation, providing a total five bedrooms, would be expected to give rise to about 10 car movements along Kingswood Lane per day, representing an increase of around 10-12% over existing measured vehicle flows.
 10. In traffic terms, that is a significant increase and it is understandable that the Highway Authority seeks to avoid such additional traffic movements. At the same time, there is no evidence of undue accident levels over the access route to the appeal site nor even of inconvenience to users of Kingswood Lane up to now.
 11. On a practical balance of judgement, I take the view that the proposed development would not give rise to a significant additional risk to road safety and that, in this respect, it would have safe road access in further compliance with Policies SWDP21 and SWDP36.
 12. Conditions are necessary to limit the occupation of the chalets to holiday accommodation as permitted by Policy SWDP36, to ensure compliance

with the submitted plans including the provision of parking spaces, drainage, secure landscape planting and the protection of existing trees and biodiversity. It is not appropriate to impose a condition requiring the chalets to comply with the statutory definition of a caravan because they are not proposed to be mobile homes.

13. Overall, with such agreed conditions in place, I conclude that the proposed chalets would comply with the development plan as whole and that the appeal should be allowed.

B J Sims

Inspector

APPENDIX - SCHEDULE OF PLANNING CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) Unless where required or allowed by other conditions attached to this permission the development hereby approved shall be carried out in accordance with the information (including details on the proposed materials) provided on the application form and the following plans: 20 439 Loc 001, 20 439 PL002, 003, 004, 005, 006, 007.

Reason: To define the permission.

- 3) The materials to be used for the external surfaces of the proposed holiday chalets hereby permitted shall be in strict accordance with all materials as specified on drawing numbers 20-439-PL005 and 20-439-PL006.

Reason - To ensure that the new materials are in keeping with the surroundings and/or represent quality design in accordance with policy SWDP21 of the South Worcestershire Development Plan.

- 4) The chalets hereby approved shall be occupied for holiday purposes only and shall not be occupied by any person or persons as their sole or main place of residence.

Reason: The proposed visitor accommodation would be situated in the open countryside, outside any defined settlement boundary where new residential development is strictly controlled. The accommodation is only acceptable as a holiday let or tourism development in accordance with policy SWDP36 of the South Worcestershire Development Plan. To grant permission without such a condition would be contrary to policy SWDP2 of the South Worcestershire Development Plan.

- 5) The owners or operators of the chalets hereby approved shall maintain an up-to-date register of the names of all visitors to the chalets. This register shall be made available within 1 calendar month of a written request by the Local Planning Authority.

Reason: The chalets would be situated in the open countryside, outside any defined settlement boundary where new residential development is be strictly controlled. The proposed unit is only acceptable as holiday accommodation accordance with policy

SWDP36 of the South Worcestershire Development Plan. To grant permission without such a condition would be contrary to policy SWDP2 of the South Worcestershire Development Plan.

- 6) Prior to the first use of the any chalet hereby approved an area shall be laid out within the curtilage of each chalet for the parking of one car. This area shall thereafter be kept available for the parking of vehicles.

Reason - In the interests of highway safety and to ensure the free flow of traffic.

- 7) Prior to the commencement of development hereby approved all temporary fencing for the protection of all retained trees or hedges on the site and trees outside the site whose Root Protection Areas fall within the site shall be erected in accordance with BS 5837:2012 (Trees in Relation to Design, Demolition and Construction) and this protective fencing shall remain in place until the completion of development. Nothing including soil shall be stored or placed, nor shall any ground levels be altered, within the fenced area and there shall be no burning of any material within 10 metres of the extent of the canopy of any retained tree or hedge.

Reason - To prevent existing trees and hedges from being damaged during construction work in accordance with policies SWDP 21 and 22 of the South Worcestershire Development Plan.

- 8) Within the first planting season following the completion of the development the boundary hedgerow and landscaping planting shall be carried out in accordance with approved plan 20-439-PL-002. All new hedgerow plants and trees shall be planted in full accordance with the specification on the approved plan and thereafter retained. If any part of the hedgerow or any of the trees die, are removed or becomes seriously damaged or diseased, they shall be replaced in the next planting season with others of similar size and species.

Reason: To ensure that the development does not have an adverse effect on the character and appearance of the area in accordance with policies SWDP21 and SWDP25 of South Worcestershire Development Plan 2016.

- 9) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting that Order with or without modification) there shall be no external lighting provided on the site, unless a

detailed scheme of lighting is submitted to and approved in writing by the LPA and is fully implemented in accordance with the details approved.

Reason - To ensure the proposed development does not have an adverse effect on the character and appearance of the area in accordance with policies SWDP1, SWDP21 and SWDP25 of South Worcestershire Development Plan and to protect local biodiversity in accordance with Policy SWDP22 of the South Worcestershire Development Plan.

- 10) Prior to the first occupation of the development hereby permitted, the measures set out in the submitted Water Management Statement shall be fully implemented and shall be retained thereafter.

Reason: To ensure that an appropriate sustainable drainage system is provided to serve the development in accordance with policy SWDP29 of the South Worcestershire Development Plan 2016.