



Appeal Decision

Site visit made on 23 May 2023

by Tamsin Law BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 July 2023

Appeal Ref: APP/J1860/W/22/3313612

Field Opposite Laylocks Garden Centre

- 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 Burgoyne Property Investments Ltd against the decision of Malvern Hills District Council.
 - The application Ref M/22/00222/FUL, dated 28 January 2022, was refused by notice dated 5 October 2022.
 - The development proposed is described as the "expansion of existing commercial site with erection of 5 commercial buildings (use class E criteria G and B8)".
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the proposed development would be suitably located, having regard to local and national policies.

Reasons

3. Policy SWDP 2 of the South Worcestershire Development Plan (2016) (SWDP) relates to the development strategy and settlement hierarchy including the principles of providing accessible, attractive employment sites and focussing most development on the urban areas. SWDP Policy SWDP 4 states that proposals must demonstrate that they offer genuinely sustainable travel choices.
4. The appeal site is located to the north of the A44 which leads from Worcester towards Leominster. To its north and east are agricultural fields with the existing commercial operation to the west. Opposite the appeal site is Laylocks Garden Centre. During my site visit I noted that there were no pavements, street lighting or cycle paths in the vicinity of the appeal site.
5. I have had regard to the submitted transport information and note that the proposed development would likely generate an additional 97 two-way vehicle movements a day, which would equate to approximately 8 trips per hour across a 12-hour period.
6. A travel plan, electric vehicle charging points and cycle parking are proposed as part of the scheme. However the lack of pavements, designated cycle lanes and street lighting would mean that alternative forms of travel would be considered an unattractive and unsafe option by people travelling to and from the site, particularly in winter months where daylight is limited, and the weather is more inclement. Additionally, there did not appear to be any bus

stops in walking distance to the appeal site. It is therefore likely that the proposed development, and potential additional 97 two-way movement per day, would be accessed with a heavy reliance on private motorised vehicles as opposed to alternative modes of travel.

7. My attention has been drawn to the comments made by the Highways Authority who offered no objection to the proposed development. However, their comments appear to relate to highway safety matters and do not appear to be an assessment of the planning merits of the proposal in relation to whether or not the site is in a sustainable location.
8. The appellant has noted that Laylocks Garden Centre has recently gained planning permission for an extension. I have not been provided with full details of the proposal, nor whether the extension would have likely increased vehicular movements to the garden centre. Additionally, this was the extension of a single use rather than an extension to a commercial use to provide a number of buildings with a range of potential future occupiers. As such I do not consider that the specific circumstance of the extension is comparable with this appeal.
9. For the above reasons, I conclude on this issue that the proposed development would not be suitably located, having regard to development strategy policies of the development plan and to national policy. As such it would be contrary to policies SWDP 2 and SWDP 4 of the SWDP. It would also be contrary to the Paragraphs 84 and section 9 of the National Planning Policy Framework (the Framework) which seeks to ensure that developments enable the sustainable growth and expansion of business in rural areas and promote sustainable transport.

Other Matters

10. It has been put to me by the appellant that due to the age of the policies in relation to economic growth, along with the current timetable for their review and the undersupply of employment land, that Paragraph 11 (d) of the Framework is engaged in this case. In this respect, I am mindful of Paragraph 219 of the Framework and the need for consistency between it and the development plan. In this regard, I consider that the relevant policies contained within the SWDP are broadly consistent with the Framework and therefore Paragraph 11 (d) is not engaged in this instance. Even if I were to conclude that it was engaged, whilst the proposal has the potential to generate employment opportunities, given the unsustainable location of the site, this would be significantly and demonstrably outweighed by the benefits of the development. It would not therefore be sustainable development for which the presumption in favour applies.
11. I have had regard to the statutory duty to pay special attention to the desirability of preserving the setting of the nearby Grade II listed building, known as Rose Cottage. Due to the distance between Rose Cottage and the appeal site, along with the intervening commercial development and landscaping, the proposed development would have a neutral impact on the setting of the listed building. For these reasons, I consider that the proposal would preserve the setting of the listed building.

Conclusion

12. For the above reasons, there are no relevant material considerations, including the approach of the Framework and worthy of sufficient weight, which would indicate a decision otherwise in accordance with the development plan. It is for this reason that the appeal should be dismissed.

Tamsin Law

INSPECTOR