



Appeal Decision

Site visit made on 18 April 2023

by Tamsin Law BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 August 2023

Appeal Ref: APP/H1840/W/22/3306688

The Old Kitchen, Quarry Bank, Hartlebury, DY11 7TE

- 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 Trustees of the QE Foundation against the decision of Wychavon District Council.
 - The application Ref 22/00172/FUL, dated 28 March 2022, was refused by notice dated 27 April 2022.
 - The development proposed is described as “demolition of existing building (former kitchen to the New Elizabethan School) and erection of two-storey three-bedroom dwelling.”
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing building (former kitchen to the New Elizabethan School) and erection of two-storey three-bedroom dwelling at The Old Kitchen, Quarry Bank, Hartlebury, DY11 7TE in accordance with the terms of the application, Ref 22/00172/FUL, dated 28 March 2022, subject to the conditions set out in the attached schedule.

Preliminary Matters

2. The Council’s decision notice refers to its ability to demonstrate a five-year housing land supply. The Council has since confirmed that it can no longer demonstrate a five-year housing land supply. On that basis, National Planning Policy Framework (Framework) paragraph 11 d) ii. is engaged. This states that where relevant policies are out of date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
3. There is a planning obligation before me, the Council has confirmed it is necessary and reasonable, responding to the nature, type and scale of the proposed development. There is nothing compelling before me to disagree. I have therefore taken it into account.

Main Issues

4. The main issues are;
 - whether the proposed development would be consistent with local and national policies relating to the location of new housing development,
 - whether it would preserve or enhance the character or appearance of the Hartlebury Conservation Area,

- the effect of the proposed development on highway safety; and
- whether the proposed development makes adequate provision for affordable housing through developer contributions.

Reasons

Location of Development

5. Both main parties acknowledge that the appeal site is located outside the settlement boundary of Hartlebury as defined by the South Worcestershire Development Plan (2016) (SWDP) and is therefore considered to be in the open countryside. Policy SWDP2 of the SWDP states that in these locations residential development will be limited to rural workers dwellings and replacement dwellings. The replacement of existing non-residential structures with dwellings is not listed as an exception, therefore, the proposed development would conflict with the location strategy of the development plan.
6. Local services such as public house, schools and parish hall are located within walking distance of the appeal site. Hartlebury Trading Estate which appears to host a number of commercial businesses is located to the east of Hartlebury and is easily accessed. Whilst these would offer some opportunity for services and employment in the locality, occupants of the appeal scheme would be likely to need to travel to other settlements for wider facilities to meet their day-to-day needs. A public footpath connects the site with Hartlebury to the east and west, however this would unlikely be the preferred method of travel during inclement weather, darkness and for those with reduced mobility.
7. A short walk from the appeal site is a bus stop and further east, close to Hartlebury Trading Estate, is a train station which links the area with Kidderminster, Droitwich Spa and Worcester. Access to these on foot would require individuals to travel along a narrow unlit lane or along the public rights of way. Although the desirability of the route would be less favourable outside of daylight hours, it would offer the potential for future occupants to make some use of public transport. Nevertheless, given these constraints, an increase in travel by private car remains a likely consequence of the appeal scheme.
8. Whilst the site is previously developed, due to its location outside the settlement boundary and constraints to accessibility, it would be contrary to the strategy of the development plan. It would conflict with SWDP Policy SWDP2 which seeks, amongst other things, to focus development on urban areas where housing needs and accessibility to public services are greatest.

Conservation Area

9. The appeal site is located adjoining the boundary but within the Hartlebury Conservation Area (CA). The CA derives its significance from the historic identity of its buildings, architectural detailing, materials, boundary treatments and its historic connection with Hartlebury Castle, its associated grounds and church.
10. The appeal site comprises a single storey former kitchen block that served the New Elizabethan School. The appellants submission notes that the existing building has not been used since 1978 and during my site visit, I saw that it was in a poor state of repair and was fenced off due to its dilapidated state.

The existing buildings is finished with rendered block work, corrugated roof and has a number of flues and vents.

11. The site is accessed via a narrow lane which serves a small number of residential properties. The lane is bound by stone walls and hedgerows and few residential dwellings are located sporadically along its length which gives the immediate area a rural character. The appeal site, being a commercial building, is somewhat at odds with the prevailing rural character and does not contribute positively to the CA. The Council have confirmed that the demolition of the existing building would not remove any historic fabric.
12. The Hartlebury Conservation Area Appraisal and Management Plan (CAAMP) does not identify any contribution that the appeal building, or site makes to the CA, nor does it appear within any of the key views identified. Nevertheless, when walking along the public footpath towards the appeal site from the east, the appeal site is readily visible when entering the CA. However, it is seen against the backdrop of the New Elizabethan School and its associated structures.
13. In accordance with the statutory duty set out in Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I have paid special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area in reaching this decision. Moreover, paragraph 199 of the National Planning Policy Framework (July 2021) (the Framework) states that when considering the impact of development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
14. The Councils main concern relates to the absence of a Heritage Assessment, and this has meant they cannot assess the impact a new two-storey structure would have on the CA. Whilst paragraph 194 of the Framework states that an applicant should describe the significance of any heritage assets affected, it does state that this should be proportionate. Within their submission the appellant has produced an assessment of the area, the CA and key characteristics and views. The Council have had the opportunity to comment on this in their submission.
15. The proposed dwelling has been carefully designed to reflect the simple form and design of nearby dwellings, including the use of matching materials such as brick and slate. Although the Council raises particular concern in relation to the two-storey nature of the proposal. In this case, the proposal would be modest in scale compared to nearby large two storey dwellings and would be viewed within the context of sporadic development along the access lane.
16. Whilst it might be visible from a short section of public footpaths when travelling from east to west, such views would be partial, from some distance, and against the backdrop of the New Elizabethan School. Additionally, the sporadic form of development along the access lane, would mean that a single dwelling in this location would not appear at odds. In that context, the proposed dwelling would not draw the eye.
17. As the proposal would be visually read as forming part of the sporadic development of dwellings along the lane, which similarly fall within the CA, the proposed development would not appear at odds with the wider area nor appear as an uncharacteristic feature in this part of the CA.

18. Therefore, the proposed dwelling would preserve the character and appearance of the CA and would meet the requirements of section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. It would not conflict with SWDP Policies SWDP6 and SWDP24 or the Framework, which requires great weight to be given to an asset's conservation.

Highway Safety

19. I am mindful of the use of the existing building at the appeal site. It is the Councils view that the appellant has not provided any evidence of the use of the building or associated transport movements. A Statutory Declaration, completed by a trustee Queen Elizabeth Grammar School, now the New Elizabeth School, has been submitted by the appellant which states that the building was used as a kitchen and that deliveries were made along the access lane. The Council have not provided evidence to the contrary but state that movement would be minimal and associated with lunch at the school.
20. Based on the evidence submitted, the design and construction of the existing building, and its location and orientation facing the access lane, I am satisfied that this building was at some point associated with the school and accessed via the access lane.
21. The proposed development would utilise an existing access lane which provides access to a number of dwellings. My visit to the appeal site was a snapshot in time in regard to highway conditions but it was reasonable to conclude that levels of traffic would increase during peak hours. Additionally, the access lane is a public right of way, which during my site visit I saw being used. The crux of the matter for the Council and in regard to this main issue was that the intensification of the use of the existing access, which is narrow, would not be appropriate, particularly given its use as a public right of way.
22. The access lane has a slight bend, however visibility along its length is good. Most of the dwellings that utilise this access lane are located towards its junction with Quarry Bank, as such, when travelling towards this junction from the appeal site there would be good visibility of any oncoming vehicles or pedestrians. With regards to pedestrians, the lane already has a number of residential accesses, as such the increase in movements associated with a single dwelling would unlikely have a harmful impact on users who would be aware that the lane is also used by vehicles.
23. I am mindful of the historic use of the site that could have led to more vehicular movements in larger vehicles. The building is in such a state of repair that I am not convinced that such a use would imminently return. Nevertheless, the removal of this use would ensure that only traffic related to a single residential dwelling would be generated from this site.
24. With the above in mind, vehicles utilising the proposed access would have good visibility and the net increase in use of the access by a single dwelling would not have a harmful impact on highway safety. Accordingly, I find no conflict with SWDP Policy SWDP4 or with paragraph 111 of the Framework which seek to ensure that development does not have an unacceptable impact on highway safety.

Planning Obligations

25. A Section 106 Agreement has been completed which includes an affordable housing contribution to be paid prior to the first occupation of the proposed dwelling. The inclusion of a financial contribution for this purpose within the S106 Agreement would satisfy the need to make such a contribution towards the provision of the affordable housing. It appears to be necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related to it in scale.

Planning Balance

26. Framework paragraph 11 d) ii. states that where relevant policies are out of date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. The Framework sets out that the purpose of the planning system is to contribute to the achievement of sustainable development through the delivery of the mutually dependent economic, social and environmental objectives.
27. There would be a small socio-economic benefit from the proposal related to the construction and occupation of this development. I afford this modest weight. The proposal's contribution to the Council's overall supply of housing attracts modest weight. Paragraph 69 of the Framework recognises that small sites can make an important contribution to meeting the housing requirement of an area and are often built out relatively quickly.
28. In the context of the development plan, I have found that the location of the proposed development would be contrary to the development strategy. It would also have limited access to services and facilities. It is therefore contrary to SWDP Policy SWDP2 and to the development plan as a whole. For this appeal, I have found policies SWDP2 to be generally consistent with the relevant aims of the Framework.
29. Whilst the conflict with these policies amounts to harm, the Council is currently failing to deliver sufficient homes to meet the five-year housing land supply. Therefore, in the context of the appeal, this reduces the weight to be afforded to this policy conflict. Accordingly, I afford modest weight to this harm.
30. The proposal would preserve or enhance the character and appearance of the CA and would not harm highway or pedestrian safety. These are neutral considerations.
31. Therefore, the adverse impacts of the proposed development in respect of the location of the site and its accessibility would not significantly and demonstrably outweigh the combination of its benefits, when assessed against the policies in the Framework as a whole. Despite the conflict with the development plan, material considerations indicate permission should be granted for the proposed development.

Conditions

32. The Council has provided a list of conditions, which I have assessed in regard to the advice provided in the Planning Practice Guidance (PPG). I consider that conditions regarding external lighting and water management are necessary in order to ensure that the biodiversity and environment of the area is

safeguarded during construction and lifetime of the development. Conditions regarding the provision of parking/turning area, electric car charging, and the provision of cycle storage are necessary in order to ensure a safe access and to promote the use of alternative methods of travelling. I have altered the wording of the condition relating to parking and turning as this information is already on the plans and therefore does not need to be submitted. A condition requiring further details on external materials and window detailing are required in order to safeguard the character and appearance of the area and CA.

33. I have given careful consideration to the inclusion of the condition removing permitted development rights, having had regard to the PPG's advice on the inclusion of such restrictive conditions in specific circumstances. In this instance, the proposed development, if extended or altered could impact on the character and appearance of the area and CA. As such, I consider the condition, and the Classes noted by the Council, to be necessary.
34. I have not included a condition relating to track improvements. No reason has been given for the conditions and I have not been provided with a policy that would require such upgrades.
35. I have altered the wording of some conditions in order to ensure they comply with the PPG.

Conclusion

36. For the above reasons, and having had regard to all other matters raised, the appeal should be allowed.

Tamsin Law

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

2. The development hereby permitted shall be carried out in accordance with following approved plans: 2295/LOC Location Plan, 2905/03A Block Plan – Proposed, 2295/02B Site Plan as Proposed, 2295/01A Plans and Elevations as Proposed and 2295/04 Proposed Bat House Details
3. The development hereby permitted shall be carried out in accordance with the recommendations set out in the Bat Survey and Impact Assessment, dated 12/10/2021.
4. Prior to the first occupation of the development hereby permitted details of any external lighting to be provided in association with the development shall be submitted to and approved in writing by the Local Planning Authority. The details shall include times when the external lighting will not be switched on. Development shall be carried out in accordance with the approved details. 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 other external lighting provided on the application site.
5. Prior to the first occupation of the development hereby permitted, the details set out in the submitted Water Management Statement shall be fully implemented and remain thereafter.
6. Prior to the first occupation of the development hereby permitted the access, turning area and parking facilities shall be provided in accordance with 2295/02B Site Plan as Proposed. These areas shall thereafter be retained and kept available for their respective approved uses at all times.
7. Prior to the first occupation of the development hereby permitted the proposed dwelling shall be fitted with an electric vehicle charging point complying with BS EN 62196 Mode 3 or 4 charging and BS EN 61851 and the Worcestershire County Council Streetscape Design Guide. The electric vehicle charging point shall be retained for the lifetime of the development unless it needs to be replaced in which case the replacement charging point shall be of the same specification or a higher specification in terms of charging performance.
8. Prior to the first occupation of the dwelling hereby permitted secure parking for at least two bicycles shall be provided within the curtilage of the dwelling and these facilities shall thereafter be retained for the parking of cycles only.
9. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (or any order revoking, re-enacting, substituting, amending, extending, consolidating, replacing or modifying that Order), no development falling within Classes A, B, C or D of Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) other than those expressly authorised by this permission shall be constructed on the application site.
10. The development hereby permitted shall not be constructed beyond damp proof course until details of the proposed materials for all external surfaces have been first submitted to and approved in writing by the Local Planning

Authority. Development shall be carried out in accordance with the approved details.

11. The development hereby permitted shall not be constructed beyond damp proof course until details of the fenestration, glazing, doors, and chimney have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.