



Appeal Decision

Site visit made on 26 September 2023

by H Smith BSc (Hons) MSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 October 2023

Appeal Ref: APP/D1835/W/23/3320824

Land off Trotshill Lane East, Worcester, WR4 0AT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant permission in principle.
 - The appeal is made by Mr J Glackin against the decision of Worcester City Council.
 - The application Ref 22/01097/PIP, dated 21 December 2022, was refused by notice dated 5 April 2023.
 - The development proposed is for the construction of up to 5no. dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposal is for permission in principle. Planning Practice Guidance (PPG) advises that this is an alternative way of obtaining planning permission for housing-led development. The permission in principle consent route has 2 stages: the first stage (or permission in principle stage) establishes whether a site is suitable in-principle and the second ('technical details consent') stage is when the detailed development proposals are assessed. This appeal relates to the first of these 2 stages.
3. The scope of the considerations for permission in principle is limited to location, land use and the amount of development permitted¹. All other matters are considered as part of a subsequent Technical Details Consent application if permission in principle is granted. I have determined the appeal accordingly.

Main Issues

4. The main issue is whether the site is suitable for residential development, having regard to its location, the proposed land use and the amount of development, with particular regard to:
 - the effect on the Significant Gap;
 - the effect on the Green Space; and
 - the effect on the character and appearance of the Trotshill Conservation Area and the setting of three listed buildings.

¹ PPG Paragraph: 012 Reference ID: 58-012-20180615

Reasons

Significant Gap

5. The appeal site is a parcel of undeveloped land that is located on the north side of Trotshill Lane East within the settlement of Trotshill. To the west of the site is Trotshill House and a complex of former agricultural buildings that have been converted into residential use. In between these existing buildings and the site is a relatively modern detached dwelling known as The Coach House. To the north and south of the site is undeveloped land that has an open and rural appearance. Land to the east of the site is also undeveloped with an open and rural appearance up to the highway (A4440).
6. The site is situated within a designated Significant Gap. Policy 2D of the South Worcestershire Development Plan (2016) (SWDP) states that development proposals should ensure the retention of the open character of the Significant Gaps. The purpose of the Significant Gap is to serve as a buffer or visual break between rural settlements and adjacent urban areas or to protect the character and setting of settlements, and to provide additional protection to open land that may be subject to development pressures. The SWDP states that acceptable development proposals in such areas may include the reuse of rural buildings, agricultural and forestry-related development, playing fields, other open land uses and minor extensions to existing dwellings.
7. The proposal would result in new development within the Significant Gap. The site is clearly separated from the existing residential buildings by an existing driveway, which detaches the appeal site from these buildings. As such, the site is not physically joined to the existing development. The site's naturalised appearance, along with its mature tree and vegetation cover, visually distinguish it as an obvious feature of the countryside rather than an intrinsic part of the settlement. This is particularly apparent when travelling along Trotshill Lane East.
8. Therefore, the site does not form part of the existing built form and is instead seen as part of a more rural open context. The site's characteristically verdant, undeveloped nature emphasises a transition from the built form of the settlement to a more rural context beyond. Consequently, the proposal would result in encroachment onto land which presently has an open, undeveloped character and would diminish the Significant Gap at this location.
9. Whilst the site is enclosed by mature trees, including tall conifer trees, and vegetation along its perimeter, partial views of the proposed development would be possible from Trotshill Lane East and the neighbouring dwellings, particularly from the site entrance and during the winter months when trees and vegetation lose their leaves. Moreover, trees and vegetation cannot be relied upon to provide a permanent buffer to views. This is because there is no guarantee that such planting would survive or be adequately maintained in the longer term.
10. I acknowledge that the Significant Gap at this location forms a gap between the eastern edge of Worcester and the M5. Nevertheless, its purpose is to retain the existing settlement pattern through maintaining the openness of the undeveloped land to the west of the A4440, and securing the quality of life benefits of having open land close to where people live.

11. There are large commercial premises constructed to the east of the site, but these are beyond the highway (A4440) and therefore segregated from the site's locality.
12. I accept that the site is not publicly accessible land as it is in private ownership, however, there is no requirement for land within the Significant Gap to be publicly accessible.
13. The appellant suggests that the principal of residential development on the site is supported by Policy 2B of the SWDP. However, infill developments would generally apply to proposals that would infill a gap of an otherwise continuous frontage. Although the proposal would be adjacent to existing development, there is a generous gap between the existing development and the site, and it could not be described as having a continuous frontage. Accordingly, it does not follow that the proposal would represent a natural infill.
14. Even though the site lies within the defined development boundary for Worcester, it is an undeveloped greenfield site located within the Significant Gap and the proposal would not fall within any of the categories of development cited as being acceptable within a Significant Gap.
15. Consequently, the proposed development would not be a suitable location for housing with regard to the local development strategy as it would unacceptably erode the designated Significant Gap. The proposal would therefore fail to accord with Policy 2 of the SWDP, which amongst other things, seeks to ensure developments retain the open character of the Significant Gaps. The proposal would also fail to comply with paragraph 174 of the National Planning Policy Framework (Framework) which, amongst other things, seeks to ensure that new developments contribute to and enhance the natural environment by recognising the intrinsic character and beauty of the countryside.

Green Space

16. The appeal site is located on land designated in the development plan as green space. The proposed development would result in the loss of part of this green space.
17. Policy 38 of the SWDP states that development of green spaces will not be permitted unless certain exceptional circumstances are demonstrated. The exceptional circumstances include community or recreational uses that do not compromise the essential quality and character of the green space, an assessment of need that demonstrates the green space is surplus to requirements, or alternative or replacement green space of equivalent value has been secured in a suitable location.
18. As the proposal would be for market dwellings, it would not represent a community or recreational use. A robust assessment demonstrating that the green space is surplus to requirements has not been submitted, and no alternative green space to replace that to be lost has been put forward. As such, the proposal would not comply with any of the uses set out within the exceptional circumstances of Policy 38. Whilst new native planting to encourage biodiversity on the site could be secured by condition at the technical details consent stage, it would not be an alternative or replacement green space, which is determined to be of equivalent value.

19. The appellant indicates that Policy 38 is within the tourism and leisure section of the SWDP, nevertheless the site is designated as green space and therefore Policy 38 is applicable. Although the appeal site is private land with no public access, the SWDP states that whilst most open spaces are publicly accessible, some are in private ownership. Therefore, regardless of the site's private ownership, its undeveloped qualities perform valuable functions such as contributing to biodiversity, the character of the area, and providing a sense of openness and space.
20. The appellant claims that the Council has not properly assessed the green spaces in Worcester and has referred me to paragraph 102 of the Framework. However, the South Worcestershire Development Plan (2016) remains to be the adopted plan for the area, which contains policies that were soundly based on an assessment of green spaces, which contribute to biodiversity, the character of the area and providing a sense of openness and space. To allow new build housing in this location would be contrary to the aims of this policy, which do not permit development on areas of identified green space, other than in the listed exceptional circumstances.
21. Consequently, the proposal would undermine the Council's development strategy to protect green space. For the reasons given, I conclude that the proposal would adversely impact the green space. It would therefore fail to accord with Policy 38 of the SWDP, which amongst other things, seeks to retain designated green spaces other than in exceptional circumstances listed.

Conservation Area and Listed Buildings

22. The appeal site is located within the Trotshill Conservation Area ('the CA'). The significance and special interest of the CA is mainly drawn from its medieval origins and the architectural quality of its historic buildings, including several timber framed buildings and a group of traditional farm buildings. The character of the CA derives from its rural qualities and its dispersed settlement pattern.
23. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires decision makers to have special regard to the desirability of preserving or enhancing the character or appearance of the Conservation Area, to which I have attached considerable importance and weight.
24. The proposal would introduce up to 5 dwellings on the site. Even if the proposal comprised of bungalows or as a low-level building arranged in a courtyard form, such a composition of development would result in a dense urban form. Though the northern part of the CA is more densely developed, the proposal would further urbanise this area, which would conflict with and diminish the settlement's low-density, sporadic, and essentially rural character.
25. Furthermore, the proposal would spread built form into the open, verdant land, altering the balance between urban and rural landscape in favour of urban form.
26. Consequently, the proposal would urbanise the site and this expansion of built form, together with the reduction in verdancy of the site, would significantly harm the open, rural character and appearance of the site and the surrounding area. This would be readily apparent to passers-by along Trotshill Lane East and would unacceptably harm the significance of the CA.

27. The site is also within the setting of three Grade II listed buildings, the closest of which is the Grade II listed Granary located on the south side of the lane, to the southwest of the site. The significance and special interest of the listed buildings is derived, in part, from their age and relevance to the historic evolution of the settlement, and their historic building fabric. This significance and special interest is further underpinned by the spaciousness of their plots and surroundings.
28. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, requires the decision maker, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest.
29. Due to the adequate separation distances and the intervening development between the appeal site and the listed buildings, the proposal would not be easily viewed from the environments of the listed buildings. I am therefore satisfied that the site's undeveloped state is not a significant component of the immediate or wider setting of these listed buildings, and there is no evidence before me to suggest that it contributes to their significance. Thus, the location, land use or amount of development proposed would not harm the immediate or wider setting of these listed buildings. However, the lack of harm in this regard would be neutral and would not weigh in favour of the proposal.
30. For the reasons given above, the proposed development would fail to preserve or enhance the CA. As such, it would harm the significance of this heritage asset. Paragraph 199 of the Framework advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to their conservation.
31. I would qualify that the degree of harm to this heritage asset would be less than substantial. In accordance with paragraph 202 of the Framework, that harm should be weighed against any public benefits of the proposal.
32. The proposal would provide a long-term social benefit by contributing up to 5 dwellings to the local housing supply. This would help meet the housing needs of the present and future generations, and potentially contribute towards accommodation needs of the elderly. It would also provide some direct and indirect social and economic benefits, including employment during the construction period. The proposal would also provide financial benefits, such as on-going council tax revenues and new homes bonus contributions. A number of key services and facilities are located within walking distance and the site is also near to public transport and close to the centre of Worcester. However, I find insufficient public benefits arising from this proposal to offset the identified harm to which I attach significant weight.
33. In summary, for the reasons above I conclude that the proposal would fail to preserve or enhance the character or appearance of the CA. The proposal would therefore fail to accord with Policies 6, 21 and 24 of the SWDP. Collectively, these policies, amongst other things, seek to ensure development integrates effectively with its surroundings, and preserves or enhances the character and appearance of the area, including heritage assets and their settings. In addition, the proposal would not accord with the policies of the Framework (Section 16), which seek to conserve and enhance the historic environment.

Other Matters

34. The appellant has made reference to the Preferred Options of the SWDP Review. However, there is no certainty on the outcome of the emerging plan due to its early stage. I have afforded only limited weight to this matter.

Planning Balance

35. The Council's evidence indicates that they do not have a five-year housing land supply. The lack of a 5-year housing land supply means that the policies which are most important for determining the proposal are out-of-date, in accordance with paragraph 11d) of the Framework. However, part i. of paragraph 11d) clarifies that permission should not be granted if the application of policies in the Framework that protect areas or assets of particular importance, including designated heritage assets, provide a clear reason for refusing the development. As I have explained, there would be harm to the Conservation Area that would not be clearly outweighed. This provides a clear reason for refusing the development. Therefore, the proposal would not benefit from the presumption in favour of sustainable development.

Conclusion

36. The proposal conflicts with the development plan as a whole, and there are no material considerations worthy of sufficient weight that would indicate a decision other than in accordance with it. The appeal is therefore dismissed.

H Smith

INSPECTOR