



Appeal Decision

Site visit made on 19 September 2023

by Nichola Robinson BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30th October 2023

Appeal Ref: APP/R1845/W/23/3318603

75 Mill Road, Stourport-on-Severn DY13 9BJ

- 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 J Grant against the decision of Wyre Forest District Council.
 - The application Ref 22/0742/OUT, dated 06 September 2022, was refused by notice dated 16 February 2023.
 - The development proposed is proposed redevelopment to create 2no 3 bedroom 2 storey dwellings and 2no 3 bedroom bungalows.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was submitted in outline with all matters reserved for future consideration. I have determined the appeal on this basis.
3. Although not a reason for refusal, the effect of the proposal on protected species is potentially a determinative issue. Therefore, I have elevated this matter to a main issue. The main parties have been given the opportunity to comment on the effect of the proposal on protected species, and I have taken these comments into account in reaching my decision.

Main Issue

4. The main issues are the effect of the proposed development on protected species and whether adequate justification has been provided for the proposed demolition of the locally listed building on the site.

Reasons

Protected species

5. Paragraph 99 of Circular 06/2005¹ states that the presence of a protected species is a material consideration when a development proposal is being considered which would be likely to result in harm to the species or its habitat. It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before any planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision.
6. The appellant has provided a Preliminary Ecological Appraisal Report (PEA). This report was based on an inspection of all accessible exteriors and interiors

¹ Circular 06/2005: Biodiversity and geological conservation - statutory obligations and their impact within the planning system

of the building and features expected to be affected by the proposals. This PEA states that accessible interior surfaces and exterior walls were inspected for bat droppings, feeding remains of bats, dead bats, or signs of scratching. While none were observed, it is stated that the limited access to less structurally sound sections of floor and heavily obscured walls limited the overall area that could be inspected. The report goes on to state that, although no signs of activity or live bats were observed, the large volume of available space within the building, number of access points, range of internal temperatures and potential roosting habitats make the property of “high” value to roosting bats.

7. The PEA recommends that a full and extensive bat survey will be required in appropriate season(s). This would inform suitable avoidance, mitigation and compensation requirements. This bat survey does not form part of the appeal proposal. The main parties agree that this can be dealt with by a pre-commencement condition requiring that an ecological investigation be carried out by a suitably qualified ecologist, and that any further actions be implemented to ensure that the proposed development will deliver biodiversity net gain and provide enhancement for protected species that may be present.
8. I acknowledge that this proposal is in outline format and, therefore, that the findings of the ecological mitigation strategy could be incorporated into subsequent reserved matters applications, and furthermore that, as all matters are reserved for future consideration, this would not require any amendment to the appeal proposal. I also note that the development is small in scale and the PEA did not find evidence of bat activity. However, I give due weight to the PEA which states that parts of the building are of high value to roosting bats, recommending that a full bat survey be carried out.
9. In the absence of a full bat survey to establish the full effects of the proposal on bats, it is not known if and to what extent bats are currently using the site for roosting. Thus, whilst reserved matters applications could identify mitigation measures, I cannot be satisfied that these mitigation measures would be capable of offsetting the harm or providing an enhancement for this protected species.
10. The circular makes clear that it is essential that the presence or otherwise of protected species, and the effect on them by a proposal, is established before planning permission is granted. This is to ensure that their presence is fully taken into account. It is not therefore appropriate for such a matter to be dealt with by condition. In the absence of this detail, I have insufficient information to assess the extent of the impact on this protected species and whether the need for or public benefits of the proposed development would outweigh the potential harm.
11. I note that the suggested condition could ensure biodiversity enhancements as part of subsequent reserved matters application(s). Nonetheless, this benefit would not mitigate the lack of knowledge on the effect of the proposal on bats.
12. I therefore conclude that the appellant has failed to demonstrate that the proposal would not harm protected species, specifically bats. Accordingly, the proposed development would conflict with those aims of Policy SP.23 of the Wyre Forest District Local Plan (2022) (LP) which require that proposals for development must be supported by an appropriate level of up-to-date technical ecological assessment and that development which would compromise the favourable condition of species or habitats of principal importance recognised in

the Worcestershire Biodiversity Action Plan, or listed under Section 41 of the Natural Environment and Rural Communities Act 2006, will only be permitted if the need for and the public benefits of the proposed development outweigh the loss, and that full compensatory provision, to include establishment commensurate with the ecological value of the site will be required.

13. Moreover, the proposal would be contrary to the National Planning Policy Framework (the Framework) which states that if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused. As the effect of the appeal proposal on bats has not been established, I cannot determine that it would not lead to significant harm.

Non-designated Heritage Asset

14. The appeal site comprises 75-77 Mill Road, which occupies a parcel of land between Mill Road and The Spinney. The building is included on the Local Heritage List for Stourport, and thus comprises a Non-Designated Heritage Asset (NDHA). The site is bordered by modern residential development.
15. The appeal site is densely overgrown with shrubs and trees, and the appeal building is in a state of disrepair. Consequently, little of it is visible from public vantage points and that which is visible is in a semi-ruinous state. I have not been supplied with any details setting out what, if any, steps have been taken to address the condition of the building or prevent its further deterioration. Nonetheless, no evidence has been put to me that this condition is due to deliberate neglect or damage.
16. The appeal building derives its significance as a remnant of 18th and 19th century architecture of the former hamlet of Jenny Hole in which it once stood. The heritage statement sets out that the appeal site originally comprised 3 adjoining dwellings, parts of which date from the 18th century. Whilst the heritage statement states that the building appears to be relatively stable and potentially salvageable, the structural appraisal sets out that the building is clearly in a very poor condition, with evidence of inadequate foundations, failure of the rear wings and rotten timber elements. Thus, it concludes that the fabric of the building has reached a point that the majority would need to be rebuilt, and this, coupled with the requirement for new foundations, roof and floors, would require a total replacement of the building.
17. There have been numerous alterations and additions to the building, including apparent replacement of almost all historic fenestration and some internal later 20th century modernisation and in parts of the buildings almost no historic fabric remains. The setting of this once rural building has been seriously compromised by modern housing development which borders the appeal site which has paid little regard to its historic significance. Consequently, the original scale, design and placement of the buildings is no longer apparent, and the significance of it as a remnant of the former hamlet of Jenny Hole has been reduced to a marginal one.
18. The proposal would see the complete redevelopment of the site, with the existing building demolished. Outline planning permission is sought for a development comprising 4 dwellings. The demolition of the existing building would result in the complete loss of the NDHA. Paragraph 203 of the Framework states the effect of an application on the significance of a NDHA

should be taken into account in determining the application. In weighing applications that directly or indirectly affect NDHAs, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

19. Whilst I have not been presented with any particular evidence of a pressing need for housing in the area, nonetheless the Government's objective is to significantly boost the supply of homes and there would be benefits arising from bringing the derelict, overgrown, unsightly site back into use. The proposal would result in the provision of 4 dwellings including 2 bungalows, which would add to the housing mix in an area with good accessibility to local services and facilities and public transport, attracting residents that could contribute to the local economy and creating employment during construction. It is also the case that it would be possible to reveal something of the origins of this building through the recording of any remaining historic fabric and to carry out below ground investigations to record any archaeological remains.
20. Accordingly, in this instance, given the limited significance of the building as a NDHA, I find that any harm arising from the loss of it would be minimal and would be outweighed by the identified public benefits of the scheme. My findings on this matter reflect those of a previous Inspector for a proposal for residential development following the demolition of the buildings on the same site in which it was found that the significance of the heritage asset was marginal and that the loss of it was outweighed by the benefits of bringing the site back into use².
21. Reflecting on the above, with regards to this main issue I find that adequate justification has been provided for the proposed demolition of the locally listed building on the site. Therefore, with regards to this main issue, the proposal accords with LP Policies DM.23 and SP.21 which state that the contribution of heritage assets to the character of the townscape should be safeguarded and protected, that proposals should avoid harm to or loss of heritage assets wherever possible and that development causing harm or loss of significance to a heritage asset will be resisted unless clear and convincing justification is provided. I also find no conflict with Section 16 of the Framework which seeks to conserve and enhance the historic environment.

Planning Balance

22. The proposal would make provision of 4 dwellings on a brownfield, available site within the defined development boundary of Stourport-on-Severn. These dwellings would add to the housing mix in an area with good accessibility to local services and facilities and public transport. There would also be short-term economic benefits associated with construction and in the longer-term contributions would be made by future occupiers to the local economy and New Homes Bonus and council tax revenues would also be accrued. Given the limited scale of the development, I attach limited weight to the development's positive contributions to these factors.
23. The proposal would bring planning benefits by bringing a derelict, overgrown, unsightly site back into use and the demolition of the buildings would afford the opportunity for the recording of any remaining historic fabric and below ground investigations to record any archaeological remains. Given my findings in

² Reference APP/R1845/A/14/2218688

relation to the second main issue relating to the justification for the demolition of the locally listed building on the site, I attribute moderate weight to these benefits.

24. I note the appellant's aspiration that the proposal would lead to an enhancement in biodiversity habitat and that the proposed dwellings would be smaller, flexible and highly energy efficient, would utilise renewable energy and may appeal to the elderly or those with mobility issues. Nonetheless, as the application is in outline format, such matters are not before me and thus cannot weigh in favour of the proposal.
25. Nonetheless, based on the evidence before me I am unable to conclude that there would be no harm to protected species. In such circumstances I cannot be certain that the public benefits of the proposal would outweigh this potential harm.

Conclusion

26. In conclusion, whilst I have found that adequate justification has been provided for the proposed demolition of the locally listed building on the site, in the absence of sufficient evidence to the contrary, I am unable to conclude that there would be no harm to protected species. It would therefore conflict with the development plan and there are no other considerations, including the Framework, that outweigh this conflict.
27. For the reasons given above, I conclude that the appeal should be dismissed.

Nichola Robinson

INSPECTOR