



Appeal Decision

Site visit made on 6 December 2023

by H Smith BSc (Hons) MSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 January 2024

Appeal Ref: APP/J1860/W/23/3320184

Benholme, Holywell Road, Malvern, Worcestershire WR14 4LF

- 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 Roger Betts against the decision of Malvern Hills District Council.
 - The application Ref 21/02130/FUL, dated 17 November 2021, was refused by notice dated 19 October 2022.
 - The development proposed is a low energy, new self-build two-bedroom house on existing garden/wooded area, on land adjacent to Benholme.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. Following the refusal of the application the revised National Planning Policy Framework (Framework) (2023) has been published. The parties have had the opportunity to comment on this as part of their appeal submissions. There have been no fundamental changes relevant to the main issues in this appeal.

Main Issues

3. The main issue is the effect of the proposal on the character and appearance of the area, including the Malvern Hills Area of Outstanding Natural Beauty and the Malvern Wells Conservation Area.

Reasons

4. The appeal site is a parcel of wooded hillside land situated on Holywell Road. It is located within the Malvern Hills Area of Outstanding Natural Beauty (AONB) and the Malvern Hills Conservation Area (CA). The CA and this part of the AONB is characterised by its traditional built form, its tranquil setting in a hillside location, and wooded areas, which accentuates its rural character.
5. Paragraph 182 of the Framework requires that I must give great weight to the conservation and enhancement of the landscape and scenic beauty of an AONB.
6. 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.
7. The surrounding area is typified by linear development along the highways, of large detached and semi-detached dwellings generally set back from the

highway within substantial plots. Holywell Road in particular, is a narrow winding road, partly significant due to its wooded quiet nature.

8. The appeal site is steeply sloping and includes several significant trees, including two large established red woods within its wooded area. The site is adjacent to Benholme, which is a substantial house with extensive gardens. The building is of regency style with slate roofs and finished in render. There are several properties located along Wells Road to the south which sit at a significantly lower level than the appeal site and are generally historic in age and traditional in character and materials. A Public Right of Way (PROW) passes near the southern boundary of the site.
9. Despite the site being previously used as a garden, it has retained much of its wooded appearance, reflecting the wooded slopes on the opposite side of the road. Indeed, the prevailing wooded appearance of the site contributes positively to the rural character of the area, as well as the significance of the CA.
10. The proposed dwelling, situated within the hillside, would feature predominantly solid, flat side elevations and a flat roof positioned slightly below road level. However, this design deviates from the established character of neighbouring dwellings. Despite incorporating green walls and a green roof as flat elements, the proposal also integrates significant sections of brickwork. The overall solid structure and height would create a prominent, cube-like appearance on the site, accentuated by the variations in land levels.
11. The proposal would also include a stair/lift pod, a glazed greenhouse and conservatory light well, and several vertical glazing panels with metal frames on its side elevations. These modern features would be unlike the traditional appearance of the dwellings nearby. In addition, the extent of the glazing could cause light pollution during hours of darkness and glare and reflection on fine weather days.
12. Consequently, the design of the proposed development and the choice of external materials would not resemble the local vernacular architecture and would not blend in with its surroundings. It would appear as an incongruous and dominant feature that would significantly harm the traditional character of the area.
13. Furthermore, the position of the proposed dwelling close to the road and its proposed roof garden, metal railings, and associated domestic paraphernalia such as garden furniture, would serve to exacerbate its presence and appearance as an obtrusive development in what is a mature wooded area.
14. The formation of a new access from the highway and the addition of a platform and turntable would likely involve the loss of the hedgerow and reduce the wooded edge to the road. It would instead introduce hard, urban elements that would be at odds with the soft rural appearance of the site.
15. Thus, the introduction of one single-storey dwelling, rooftop garden area, associated domestic paraphernalia, vehicle turntable and parking area would, in combination, erode the rural character of the site with a significant incursion of built form of modern character.
16. The appellant indicates that the design of the building would be contemporary and is intended to be hidden from view. However, it would still be apparent

that it is a house of a contrasting form and appearance to those around it. The scale and massing of the proposed dwelling, together with the unusual design elements including the large turntable would result in an overly conspicuous development that would visually compete with the mature wooded area.

17. Whilst the existing mix of trees and mature planting on and around the site would provide some degree of screening and additional landscaping could be secured by condition, the proposal would still be visible from the surrounding area. This is due to the site's elevated position on the steep hillside and its proximity to public vantage points along the road and the adjacent PROW, and when deciduous trees and vegetation are not in leaf during winter months. Furthermore, planting could not be guaranteed to survive or be maintained in the longer term.
18. The appellant indicates that the proposed building would be constructed using corkscrew metal piles which would allow for repositioning during construction to avoid tree roots. However, the submitted evidence does not confirm the likely root protection area of the trees on site, or their sensitivity to works associated with the construction of the proposed development. I am mindful of the statutory duty under 197 of the Town and Country Planning Act 1990, to ensure conditions make adequate provision for the preservation of trees. Given the proximity of the trees to the proposed development and the absence of any detail on tree sensitivity, I cannot be sufficiently certain that a condition would protect the future health and longevity of the trees.
19. Overall, the proposal would be harmful to the character and appearance of the area, the AONB, and the significance of the CA.
20. In the context of paragraph 208 of the Framework, the harm to the heritage assets would be less than substantial and this harm should be weighed against the public benefits of the proposal. I will return to this later.
21. For the reasons given, the proposal would have a significant harmful effect on the character and appearance of the area and the scenic beauty of the AONB. It would also fail to preserve or enhance the character or appearance of the CA. As such, the proposal would fail to accord with Policies SWDP6, SWDP21, SWDP23, SWDP24, and SWDP25 of the South Worcestershire Development Plan (2016). Collectively, these policies seek to protect the rural character, local distinctiveness, landscape quality of the AONB, and conserve and enhance the historic environment. It would also conflict with guidance in the Malvern Hills Area of Outstanding Natural Beauty Guidance on Building Design.
22. In addition, the proposal would not accord with the policies of the Framework (Section 16) which seek to conserve and enhance the historic environment, or paragraph 182 which seeks to ensure developments respect and enhance the AONBs.
23. The decision notice refers to policies MWH2 and MWD2 of the draft Malvern Wells Neighbourhood Development Plan (NP). However, this NP has not yet reached referendum stage and therefore is not formally 'made'. Consequently, I attribute little weight to it.

Other Matters

24. There are Grade II listed gas lamps in the locality of the appeal site, the nearest of which are positioned along the footpath close to the east of the site

and along the highway to the west of the site. I am required to have regard to the preservation of the setting of these heritage assets. However, given that I am dismissing the appeal, the proposed development would not result in a change to the way in which these heritage assets are experienced. Therefore, I do not need to give this matter further consideration.

25. The appellant indicates that the proposed building would be capable of being removed from the site in the future, with minimal damage to the surrounding environment. However, there is no substantial evidence of this before me. My attention has also been drawn to the existing property at Benholme, which has a large area for car parking plus a turning space. Nevertheless, I have determined this appeal on its own merits and its site-specific characteristics. Therefore, this other development does not alter my decision.
26. On the basis of the evidence before me, the proposal would not harm the living conditions of neighbouring residential occupiers or the safe operation of the highway. There are no significant concerns in relation to drainage or ecology, subject to conditions. I also note there is some support for the proposal. However, these are neutral matters and do not weigh in favour of the scheme.
27. I note the appellant's concern regarding the Council's procedure with dealing with the planning application. Nevertheless, that is not a matter for my consideration in the context of this appeal decision.

Planning Balance and Conclusion

28. The proposed dwelling would use eco-friendly materials that would contribute to local and national targets for reducing greenhouse gas emissions. It would also provide a small self-build eco-dwelling to the Council's existing housing stock. However, I have nothing substantive before me to demonstrate that the design of the building would be truly outstanding, or that the Council is unable meet its self-build requirement.
29. Conversely, I have concluded that the proposal would result in harm to the character and appearance of the area, including the scenic beauty of the AONB, and less than substantial harm to the CA. This attracts significant weight against the scheme.
30. The benefits of the scheme are therefore limited and significantly outweighed by the harm. As such, set against this harm, the socio-economic benefits associated with one dwelling would be limited, even taking account of the objective of boosting significantly the supply of housing in the Framework.
31. Taking into account all these matters, the adverse impacts of the proposed development would significantly outweigh the benefits when assessed against the policies of the development plan and the overarching aims of the Framework.
32. Therefore, for the reasons set out above, and having had regard to all other matters raised, I conclude, on balance, that the appeal is dismissed.

H Smith

INSPECTOR