



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: 31 January 2024

Appeal Ref: APP/J1860/W/23/3321898

Land off A456 and Mamble Road, Mamble, Worcestershire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Charles Houston (Landseer Properties Ltd) against Malvern Hills District Council.
 - The application Ref M/22/01623/FUL, is dated 3 November 2022.
 - The development proposed is the construction of 4no. detached live-work units (sui generis use), including new vehicular access, internal private driveways, biodiversity planting and green infrastructure (including drainage fields).
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Decision

1. The appeal is dismissed and planning permission is refused.

Preliminary Matters

2. The appeal follows the Council's failure to determine the application (M/22/01623/FUL) within the prescribed period. However, the Council has indicated in its statement, that had it been in a position to determine the application, it would have refused planning permission. The substance of the Council's statement has informed the main issues of the appeal.
3. 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. I have had regard to the latest version of the Framework and new paragraph numbers in reaching my decision.

Main Issues

4. The main issues are:
 - whether the appeal site would be a suitable location for the proposed development, with regard to local and national planning policies, proximity to services and reliance on private motor vehicles; and
 - the effect of the proposal on the character and appearance of the area, nearby listed buildings, and protected species.

Reasons

Suitability of Location

5. The appeal site comprises a parcel of rough grassland with mixed shrubs and a scattering of small trees. It is enclosed by mature hedgerow, trees and fencing on its boundaries and there is a field gate on the west boundary providing access. Mamble Road wraps around the west and north fringes of the site and the A456 bounds it to the south. There is a Public Right of Way (PROW) that runs through the appeal site from its north-east to south-west corners.
6. Policy SWDP2 of the South Worcestershire Development Plan (2016) (the SWDP) sets out the development strategy for the area. The appeal site is not located within any defined development boundary and, consequently, the site is located within open countryside. Part C of Policy SWDP2 states that development will be strictly controlled in the open countryside and limited to a number of exceptions. One of these is "development specifically permitted by other SWDP policies", with a footnote explaining that one of these is Policy SWDP8.
7. Part G of Policy SWDP8 addresses live/work accommodation, which lists a further seven criteria to be met. The appeal proposal would meet those seven criteria. Although the end use for the proposal has not been specified, a condition could be imposed to prevent certain class uses. Furthermore, I agree with the appellant that the use of the proposed garage could be secured by condition to remain uninhabitable. Therefore, I am satisfied that the proposal would accord with Policy SWDP8.
8. Policy SWDP4 of the SWDP requires that, amongst other things, proposals must demonstrate that the layout of the development will minimise the demand for travel and that they offer genuinely sustainable travel choices. The supporting text highlights that rural residents are more reliant on the use of cars than those in urban areas.
9. This follows the Framework where it recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. However, it acknowledges that the planning system should actively manage patterns of growth, give priority first to pedestrian and cycle movements and to so far as possible facilitate access to high quality public transport.
10. Mamble is a category 3 settlement as set out within the SWDP. Mamble has a low level of facilities consisting of only a pub and a village hall and is therefore reliant on other villages for everyday needs. Whilst this categorisation may change as a result of the Council's plan review for the SWDP, it does not alter the current adopted plan and therefore carries little weight in this appeal.
11. The nearest local shop is located some 2.2km to the west at the village of Clows Top. To access services in Clows Top, occupants would have to walk along the busy A456 road. As the road is unlit, the route would not be suitable for use outside of daylight hours. Furthermore, the road is without a pedestrian footpath for much of the distance which would result in occupants having to share the carriageway with vehicles. This, combined with the absence of lighting, is likely to deter occupants from using sustainable travel options to access essential services in Clows Top.

12. The nearest primary school is located around 1.5km away and accessed by narrow unlit roads with no footpaths. Such routes would be unsuitable for pedestrians, and in particular young children, children's pushchairs, wheelchair users or people with limited mobility.
13. Although bus services do run from near the site with routes along the A456 to Tenbury or Kidderminster, these only run at limited times and not after 5pm. As such, public transport is limited.
14. Whilst there are Public Rights of Way near to the site, these routes are unlit and unsurfaced, which would limit their use during hours of darkness and are unlikely to be suitable for all users.
15. The lack of safe pedestrian routes and the limited options for alternative modes of sustainable transport would mean that future occupants are likely to resort to private vehicles to access essential services. Occupants of the proposal would therefore be largely reliant on private motor vehicle to access services and facilities, placing the proposal in conflict with Policy SWDP4 of the SWDP.
16. Consequently, although the proposal would accord with Policy SWDP8 of the SWDP, it would conflict with Policies SWDP2 and SWDP4 where they, in part, seek to provide accessible employment sites, focus development where accessibility to lower-cost public services are greatest and minimise demand for travel, offering genuinely sustainable travel choices. Furthermore, these policies are consistent with the aims and objectives of the Framework, and as such the proposed development would be at odds with it.

Character and Appearance

17. The appeal site is an undeveloped field with mature landscaping to its boundaries. The land on the site slopes down towards Mamble Road. Although the site is adjacent to existing development, the absence of development on site means that it forms part of, and assimilates into, the wider open countryside. Due in part to this, the appeal site contributes positively to the character and appearance of the area.
18. The site is within the Timbered Plateau Farmlands as set out within the Worcestershire County Council Landscape Assessment and within a Designated Rural Area as set out within the SWDP. The SWDP indicates that these areas should be protected and enhanced.
19. The village features development mainly fronting the roads, forming a core around the Church and tapering off as the roads extend east, west and north. The proposal would depart from this pattern by orientating inwardly within the site, deviating from the existing road-fronting development. Additionally, by subdividing the site for individual plots, the proposed plots would appear significantly larger and inconsistent with the existing development in Mamble.
20. Furthermore, the footprint of the proposed units would be larger than the nearby dwellings. The elevated site, coupled with the two-storey height of the proposed units, would accentuate their larger size, resulting in a development that appears out of scale with the rest of the village. Consequently, rather than appearing as a natural infill that rounds off the existing development, it would instead look separate and incongruous.

21. The formation of the proposal's access point and driveway from the highway would introduce hard, urban elements. These would be at odds with the soft appearance of the site. The proposal would also result in parked cars and domestic paraphernalia that would be associated with the proposed units, such as garden furniture, diminishing its current rural character.
22. Therefore, the presence of the units, together with the associated hardstanding materials and domestic paraphernalia, would erode the undeveloped character of the site, which makes a positive contribution to the character and appearance of the area.
23. The proposed units would incorporate tiled roofs, render and brickwork. However, despite some design detailing around openings, the overall appearance would lack visual appeal. While functionality of the live-work units might to some extent justify the practical design and spacious layout, for the reasons given, the proposal would fail to integrate with the existing built development or complement the rural surroundings.
24. Although there would be intervening vegetation and landscaping in places, I saw that there would be close-range views of the proposed development from the public right of way that runs across the site. In addition, there would be glimpses of it from the A456 and Mamble Road, particularly from the proposed access point and when vegetation not in leaf. There would also be views from nearby properties.
25. I acknowledge that there are some examples of inwardly facing developments, such as 'The Beeches'. Nevertheless, the overriding character of the village is predominantly of linear form fronting the road. Furthermore, I do not know the circumstances that led to the approval of 'The Beeches' or its specific relationship to its site. In any event, I have determined this appeal on its own merits based on the information before me and my own observations of the area.
26. For the reasons given, the proposed development would unacceptably harm the character and appearance of the area. It would therefore fail to accord with Policies 21 and 25 of the SWDP. These, in part, require schemes to be of high design quality, integrate effectively with its surroundings, and be appropriate to the rural character.

Heritage Assets

27. There are 2 listed buildings within close proximity of the site; these are Yew Tree Cottage which sits on the opposite side of the highway to the west of the site, and The Sun and Slipper public house which is located to the north. Both are grade II listed buildings. 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.
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 buildings or its setting or any features of special architectural or historic interest.
29. Land levels within the appeal site are considerably higher than that of Yew Tree Cottage and also higher than The Sun and Slipper public house. This, combined

with the appeal site's proximity to the listed buildings, would result in the proposal being easily viewed from the environments of the listed buildings. The site's undeveloped state is a significant component of the immediate or wider setting of these listed buildings, and there is no substantial evidence before me to suggest that it does not contribute to their significance. Thus, the proposal's location on higher ground combined with its scale and height, would result in a prominent and incongruous development that would harm the immediate or wider setting of these listed buildings.

30. Although boundary hedging would be retained and further landscaping could be conditioned, such planting cannot be relied upon to conceal the development for perpetuity.
31. Consequently, the proposal would cause harm to the significance and special interest of the heritage assets by bringing forward development within their settings. I would qualify that the degree of harm would, in each case be less than substantial. In accordance with paragraph 208 of the Framework, that harm should be weighed against any public benefits of the proposal.
32. The proposal would add to the housing stock, would create construction employment in the short-term, and in the longer term would lead to employment opportunities and support for small and start-up businesses in the form of 4 live-work units. There would also be expenditure into the local economy and the scheme would introduce some biodiversity enhancements. However, I find insufficient public benefits arising from this proposal to offset the identified harm to which I attach significant weight.
33. Accordingly, giving great weight to the conservation of the designated heritage assets, I consider that the less than substantial harm I have identified would not be outweighed by the scheme's public benefits when considered cumulatively.
34. For the reasons above, I conclude that the proposal would fail to preserve the setting of the adjacent listed buildings and their significance as designated heritage assets. 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 conserves and enhances the significance of heritage assets, including 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.

Ecology and Protected Species

35. The proposal is supported by a PEA report that was based on November 2020 field survey data and an updated PEA report based on a January 2023 walkover field survey. However, the content of the updated report is very similar to the 2020 report and does not appear to comply with the Chartered Institute of Ecology and Environmental Management (CIEEM) guidance for survey data that is 18 months to 3 years old. CIEEM's advice states that a survey more than 3 years old is unlikely to still be valid.
36. Furthermore, the potential impacts of the proposed development have not been assessed in relation to the submitted plans. I also note that the two survey visits were undertaken outside of the optimum season for grassland surveys.

An updated ecological survey is therefore needed. This has not been provided by the appellant.

37. A condition would not be reasonable as any mitigation measures found necessary to remove adverse effects on protected species could lead to a substantial re-design of the development. It may also be the case that adverse effects cannot be mitigated, which would need to be established before permission is granted. Any measures found necessary to protect species would also need to be in place through conditions and/or planning obligations before permission is granted.
38. Consequently, insufficient information has been submitted to be satisfied that protected species would not be adversely affected by the proposed development. I must therefore take a precautionary approach.
39. For the reasons given, the proposal would conflict with Policy SWDP22 of the SWDP, which amongst other things, seeks to ensure new development protects and enhances habitat biodiversity.

Other Matters

40. My attention has been drawn to other decisions relating to live-work units. However, these decisions relate to different sites and settlements and proximity to differing services and facilities. Moreover, I do not have the full details of these other cases before me. Thus, I do not know the planning circumstances that led to these approvals or their specific relationship with the open countryside. In any event, I have determined this appeal on its own merits.
41. The appeal site was included in the Council's SHELAA report. However, the Council state that the site was ruled out for development due to its proximity to heritage assets, as well as its topography. There is no evidence before me to indicate that this site is to be released for development as part of the SWDP plan review. I therefore attribute little weight to this.

Conclusion

42. The proposal would conflict with the development plan as a whole, and there are no other considerations worthy of sufficient weight, including the provisions of the Framework, which would outweigh this finding. Therefore, I conclude that the appeal is dismissed and planning permission refused.

H Smith

INSPECTOR