



Appeal Decision

Site visit made on 22 January 2024

by K Ford MSc MRTPI

an Inspector appointed by the Secretary

Decision date: 21 February 2024

Appeal Ref: APP/H1840/W/23/3319716

Land to the west of Northwick Road, Northwick. Easting 384008, Northing 258306

- 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 outline planning permission.
 - The appeal is made by Northwick Developments Ltd, A Bradshaw, K Ruddick, S Bradshaw and V Bradshaw against Wychavon District Council.
 - The application Ref W/22/00227/OUT, is dated 24 January 2022.
 - The development proposed is erection of an up to 70 bedroom care home (class C2) together with associated infrastructure, parking and access.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal is made in outline with all matters reserved except access. A drawing has been submitted that includes details of layout and landscaping, matters that are reserved for future consideration. I have treated it as illustrative. The appellant has identified that the location of the care home is fixed. A proposed Parameters Plan which identifies the maximum heights of the care home building has been submitted which it is proposed would form part of any permission granted through a condition. I have determined the appeal on the basis of these matters.
3. Following the submission of the appeal against the failure of the Council to give notice within the prescribed period the Council has outlined the position it would have taken on the application if it had been in a position to make the decision. The appellant has had the opportunity to comment on this position and therefore has not been prejudiced. I have determined the appeal on this basis.

Main Issues

4. The main issues are:
 - The effect on landscape character.
 - The effect on the significance of nearby designated heritage assets including Common Hill House and Riverside Conservation Area.
 - Whether the development would deliver biodiversity net gain.

- Whether the development would secure financial contributions towards transport infrastructure.

Reasons

Landscape

5. The appeal site is a field forming part of an open landscape to the east of the River Severn. Views are available through the site to the river and settlement of Hallow beyond. Adjacent to the site is Northwick Road, a narrow road accommodating single and 2 storey dwellings. To the north of the site is Common Hill House, a Grade II Listed Building. To the south of the site is Riverside Conservation Area.
6. The site lies within the Riverside Meadows Landscape Type, the characteristics of which include flat, low lying topography, pastoral landscape and a linear tree pattern cover. Whilst not exhibiting all the elements of the landscape character type, the site nonetheless makes a positive contribution to the landscape character.
7. The development of the proposed care home of the scale proposed plus the associated parking would have a notable impact on local landscape character. It would fail to integrate with the character of the landscape setting causing harm.
8. The appellant has identified that the western edge of the site would be open allowing views from Northwick Road out towards the open rural landscape of the River Severn Valley. However, these views would no longer be extensive. Instead, they would be channelled to the side of the built development and be across parked vehicles. The proposed orientation and mix of 2.5 and single storey development would do little to overcome the harm caused by the enclosing development. The retention of some important trees is noted and landscaping would soften the street scene to some extent. However, it would not sufficiently mitigate the level of harm caused by the urbanising impact of the development.
9. The appellant has made reference to development at Old Northwick Farm and nearby electricity pylons. Whilst these have an urbanising influence, they do not make the proposed development acceptable. The development would materially change the character of the site and its setting. The development would harm the landscape character and as such would conflict with the part of Policy SWDP21 of the South Worcestershire Development Plan (Development Plan) that requires new development to complement the landscape quality of the local area. It would also conflict with the part of Policy SWDP25 of the Development Plan that requires new development to be appropriate to, and integrate with, the character of the landscape setting and that it conserves, and where appropriate, enhances the primary characteristics defined in character assessments. It would also conflict with Policy NCD1 of the North Claines Neighbourhood Plan (Neighbourhood Plan) which amongst other things requires new development to integrate with the existing landscape.

Designated Heritage Assets

10. The appeal site is in close proximity to 2 designated heritage assets, Common Hill House and Riverside Conservation Area. Specific statutory duties are attached to designated heritage assets. Section 66(1) of the Planning (Listed

Buildings and Conservation Areas) Act 1990 requires that special regard should be had to the desirability of preserving the setting of Listed Buildings. As such considerable weight and importance must be given to any harm caused to the Listed Buildings or their setting.

11. Similarly, section 72(1) of the Act requires that special attention shall be paid to the desirability of preserving or enhancing the character and appearance of any building or the land in a Conservation Area. Whilst the setting of a Conservation Area is not protected by statute the same considerations still apply as a matter of policy in terms of weighing harm to significance against the benefits.
12. The special interest of a heritage asset can include its setting, that is the surroundings in which it is experienced, as well as its physical presence and historic fabric. The setting of a heritage asset can therefore contribute to the significance of the designated heritage asset.

Common Hill House

13. To the north of the site is Common Hill House, a grade II Listed Building dating from the late 17th Century. A mix of 2 and 3 storeys, its significance derives in part from its architectural and local historic interest, its rural setting and views across the valley.
14. The site forms part of the rural setting of the house, even if it no longer has the character of the garden and lawn associated with the house as identified by the appellant. A large building on the appeal site of the scale proposed to accommodate 70 bedrooms would lead to a significant change to the appeal site, including a notable change to the character of the area. The development would lead to a loss of the rural setting when viewed from Northwick Road, creating a sense of containment. This would be irrespective of any retention of views from the rear bowed projection from Common Hill House. The mature band of trees that separates the site from the house would do little to mitigate the harm. I therefore disagree with the appellant's view that the development would have almost no effect on the setting of Common Hill House. I am of the view that it would cause less than substantial harm.

Riverside Conservation Area

15. The site adjoins the Riverside Conservation Area, specifically Character Area 1: Northwick. This part of the Conservation Area is largely defined by agriculture and equestrian use and built development is limited. It has a rural character with views across the open landscape.
16. The appellant acknowledges that the scheme would affect the rural character, views and appearance of the open space. I consider that the impact of the proposed built development would be harmful to the setting of Character Area 1 and the development would detract from its significance, causing less than substantial harm.

The Heritage Balance

17. For the reasons identified there would be harm to the setting of Common Hill House and Riverside Conservation Area as a result of the proposal. In both cases the harm would be less than substantial in nature.

18. Paragraph 208 of the National Planning Policy Framework (NPPF) requires that where a development proposal would lead to less than substantial harm to the significance of a designated heritage asset the harm should be weighed against the public benefits of the proposal.
19. The development would deliver 70 units, meeting an identified need for accommodation falling within Class C2 that is suitable for older people. This needs to be considered in the context that the Council are currently unable to demonstrate a 5 year housing land supply. I give this significant weight.
20. There would be economic benefits during construction and operation of the development thereafter. This carries moderate weight.
21. The NPPF identifies that designated heritage assets are an irreplaceable resource that should be conserved for existing and future generations. The NPPF states that when considering the impact of a proposed development on the significance of the designated heritage asset great weight should be given to the asset's conservation. The benefits of the scheme would not outweigh the less than substantial harm that would occur.
22. Having regard to my statutory duties I attach considerable weight and importance to the harm to the setting of the designated heritage assets. Whilst it amounts to less than substantial harm, I find the harm to be significant and greater than the lower end of a spectrum within the scale of less than substantial harm identified by the appellant. Whilst there are a number of public benefits, I do not individually or cumulatively consider that they would outweigh the less than substantial harm.
23. The development would therefore conflict with the part of Policy SWDP6 of the Development Plan that requires development proposals to conserve and enhance heritage assets, including their setting. It would also conflict with the part of Policy SWDP21 of the Development Plan that requires new development to integrate effectively with its surroundings and where appropriate enhance heritage assets and their settings.

Biodiversity

24. The appellant is of the view that biodiversity net gain only applies to new applications for planning permission for major development from January 2024 and so does not apply to this appeal.
25. However, paragraph 174 of the September 2023 NPPF required that decisions should contribute to and enhance the local environment in a number of ways, including provision of net gain in biodiversity. Therefore biodiversity net gain needs to be demonstrated for the development, even if the application was submitted prior to the mandatory net gain requirements coming into effect on 12 February 2024.
26. Based on the information before me it has not been demonstrated that the proposal would provide the necessary net gain. As such I am unable to conclude that the proposed development would provide a net gain in biodiversity value. This would conflict with Policy SWDP22 of the Development Plan which amongst other things says that development should, wherever practicable, be designed to enhance biodiversity as well as conserve on-site biodiversity corridors. It would also conflict with the part of Policy NCLE5 of the

Neighbourhood Plan which requires new development to be designed to enhance biodiversity on the site and relevant parts of the NPPF.

27. Given the level of uncertainty regarding the ability of the proposal to deliver biodiversity net gain I do not think it is appropriate for the matter to be dealt with through a planning condition.

Unilateral Undertaking

28. A draft Unilateral Undertaking was submitted by the appellant covering matters related to bus stop infrastructure, community transport, pedestrian and cycle directional signage and a traffic regulation order contribution.
29. I consider that the measures in the Undertaking are necessary, related directly to the development and fairly related in scale and kind. As such they accord with the provisions of Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended) and the tests for planning obligations set out in the NPPF.
30. However, there are issues with the document which means the Council could not rely on it to secure the works. For example, it is not signed and dated and there is no confirmation of agreement between the main parties regarding the costs that would be paid. The appellant refers in their final comments to a final Undertaking but I do not have a copy before me. As I am dismissing the appeal I have not pursued this further.
31. On the information before me the development would not secure financial contributions towards transport infrastructure. It would consequently conflict with the part of Policy SWDP7 of the Development Plan that requires new development to provide or contribute towards the provision of infrastructure to support it.

Other Matters

32. An objection to the development was raised by the Local Lead Flood Authority (LLFA) following the submission of the appeal. The appellant has sought to address the points raised during the appeal, submitting a response as part of final comments. The LLFA has not been given the opportunity to respond to the points but as I am dismissing the appeal for other reasons there is little merit in doing this.

Planning Balance

33. The Council cannot demonstrate a 5 year housing land supply. As such paragraph 11d of the NPPF is engaged. This states that planning permission should be approved unless, in the first instance, the application of policies in the NPPF that protect areas or assets of particular importance provide clear reasons to refuse the proposed development. Policies relating to designated heritage assets are such a policy. In this instance, because the public benefits of the proposal would not outweigh the less than substantial harm that would occur, there is a clear reason to refuse the proposal. Consequently, the 'tilted balance' in paragraph 11d) ii is not relevant on this occasion. The development would not benefit from the presumption in favour of sustainable development detailed within paragraph 11 of the NPPF.

Conclusion

34. For the reasons identified, I conclude that the appeal should be dismissed.

K Ford

INSPECTOR