

Appeal Decision

Site visit made on 20 August 2024

by K Townend BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 September 2024

Appeal Ref: APP/J1860/W/24/3339315

Thatchings, Beauchamp Lane, Callow End, Worcester WR2 4UQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant permission in principle.
 - The appeal is made by Mr B Haines against the decision of Malvern Hills District Council.
 - The application Ref is M/23/00151/PIP.
 - The development proposed is for Permission in Principle - Proposed erection of a single self-build dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposal is for permission in principle. The 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 two 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 two 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. Therefore, while I note the matters raised in representations by interested parties, such as highway safety, flood risk, drainage, loss of vegetation, effect on biodiversity, and design, these are detailed matters and not for my consideration as part of this appeal.
4. An applicant can apply for permission in principle for a range of dwellings by expressing a minimum and maximum net number of dwellings as part of the application. In this instance, permission in principle has been sought for one self-build dwelling on the appeal site.

¹ Planning Practice Guidance (PPG) Paragraph: 012 Reference ID: 58-012-20180615; Revision date: 15 06 2018

5. The appeal site is the side garden of the existing detached dwelling, Thatchings, which is a Grade II Listed Building². The appeal site forms part of the land immediately around Thatchings and is, therefore, part of the setting of the listed building.

Main Issue

6. 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 development strategy for the area, access to services and facilities and the character and appearance of the area, including the effect on heritage assets.

Reasons

Location of development, strategy, and accessibility

7. A decision on whether to grant permission in principle must be made in accordance with the relevant policies in the development plan. Both main parties agree that the site lies outside the settlement boundary for Callow End and, therefore, is considered to be within open countryside. Policy SWDP 2 of the South Worcestershire Development Plan, adopted 2016, (the SWDP) seeks to safeguard the open countryside and Part C of the policy seeks to strictly control new development. The proposal would not fall within any of the limited forms of development set out in Part C supported as an exception to Policy SWDP 2. The location and land use of the proposal would, therefore, be contrary to this policy.
8. I accept that the walking distances from the site to the services and facilities within Callow End are not prohibitive and that there are a number of services and facilities in the village. I also acknowledge that traffic speeds along the lane would be likely to be low due to its width. Moreover, Callow End is a suitable village for additional housing development.
9. However, Beauchamp Lane is a narrow country road that does not have any footpaths or lighting. There are also sections where the roadside hedges are very close to the lane where there would be limited opportunities for a cyclist or pedestrian to get off the road while a vehicle passes. The same width restrictions which maintain low traffic speeds would mean that the lane would not be inviting for use as a shared surface by pedestrians, cyclists, and other road users. It would be even more uninviting in the hours of darkness and during the winter months, especially if it was wet or icy.
10. Notwithstanding the Council Highway Officer's comments, I have no substantive evidence to show that existing residents of this group of houses, or the properties further along Beauchamp Lane, regularly walk to the village and an interested party has noted that walking along the lane is dangerous.
11. In that regard Beauchamp Lane is materially different to Bush Lane at the opposite end of the village which, although an unlit road with no footway, has more areas where pedestrians and cyclists could wait off the road or walk along the verge. Consequently, that the appeal site and the two Bush

² Listed Building: Thatchings, List Entry Number: 1167048

Lane appeal sites³ are a similar distance from the settlement boundary would not alter the suitability of Beauchamp Lane for walking or cycling.

12. The appeal site is also materially different to the site at Old Hills⁴ referred to in the appellant's planning statement which would have been accessed directly off Upton Road, the primary route into and out of the village.
13. Bus stops with links to larger settlements such as Worcester have been drawn to my attention. However, in order to access public transport occupants of the proposed dwellings would be required to travel along Beauchamp Lane. The poor suitability of the lane for walking and cycling would not encourage the use of public transport. Consequently, the future occupants of the proposed development would be heavily reliant on the private car for access to services and facilities. Although the journeys would only be short the development would not offer genuinely sustainable travel choices.
14. For the above reasons, although vehicle movements for one dwelling would be low, I find that the site is not suitable for residential development, having regard to its location, with particular regard to the development strategy for the area and access to services and facilities. The proposal would, therefore, be contrary to Policies SWDP 2, SWDP 4 and SWDP 21 of the SWDP which, taken together, seek to focus most development on the urban areas, strictly control development in the open countryside, minimise the demand for travel, offer genuinely sustainable travel choices, and seek to maximise opportunities for pedestrian and cycle linkages to the surrounding area.
15. For the same reasons, the site would fail to accord with the advice in the National Planning Policy Framework (the Framework) which aims to locate development in accessible and convenient locations and promote walking, cycling, and the use of public transport, with safe and suitable access to the site for all users.

Heritage, character, and appearance

16. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, (the Act) requires the decision maker, in considering whether to grant planning permission, or permission in principle, 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.
17. I acknowledge that the advice set out in the Planning Practice Guidance⁵ notes that other statutory requirements, including those relating to listed buildings, may apply at the Technical Details Stage as both parts are required to obtain planning permission. However, Section 66(1) of the Act, as referred to above, was amended by the Housing and Planning Act 2016 to include permission in principle in the general duty with respect to listed buildings.

³ APP/J1860/W/17/3176459 & APP/J1860/W/23/3320958

⁴ APP/J1860/W/22/3295623

⁵ Paragraph: 003 Reference ID: 58-003-20190615

18. The listing description for Thatchings sets out the appearance of the building being timber-framing and brick with a thatched roof and one storey with attic. The significance of Thatchings is derived from its special architectural and historic interest and it is a handsome dwelling, set within a large garden area, which currently dominates the plot.
19. Pertinent to the appeal the significance of the listed building is also derived, in part, from its setting. Its immediate setting comprises the garden land around the building which has direct, physical, functional, visual, and historic links with the asset. The immediate setting contributes in a meaningful and positive way to the significance of the listed building. The appeal site currently contributes positively to the setting of the listed building in that it forms part of the side garden to the dwelling and part of the setting in which the listed building is appreciated.
20. The proposal would subdivide the garden of Thatchings and would result in the introduction of a new dwelling within the immediate setting of the asset. This would notably erode the undeveloped green space around the listed building. A dwelling on the appeal site, even if built as far as possible from Thatchings, would have an urbanising effect on the setting of the listed building and would reduce the legibility of the existing building and lessen the positive contribution the setting makes to the asset's significance. The proposal would, therefore, fail to preserve the setting of the listed building, contrary to the general duty set out in Section 66(1) of the Act.
21. I am mindful of the 'in principle' nature of the proposal and that there would be an ability to resolve detailed matters at the technical details consent stage. I am also aware that the Council accepted that it may be possible to design a scheme that would not harm the setting of Thatchings. However, I cannot be certain of this, based on the evidence before me and the matters that I can consider at this stage.
22. I note the appellant has referred to a site at Cross Hands Cottage/Thatched Cottage in their Planning Statement. However, the appeal referred to⁶ was for full planning permission and the Inspector noted that the visual gap retained between the buildings would reflect the existing pattern of development and maintain the harmony of the group. Moreover, the development would not overwhelm the adjoining dwelling and the Inspector, therefore, found no harm to the setting of the listed buildings. Consequently, that appeal decision is materially different to the appeal before me.
23. For the above reasons, the proposal would not preserve the setting of the Grade II listed building. The contribution that the setting of Thatchings makes to its significance would be diminished, which would result in harm to the overall significance of the designated heritage asset. I find that the level of harm would be 'less than substantial', to which I attach considerable importance and weight.
24. In accordance with the Framework great weight should be given to the conservation of the heritage asset. Paragraph 208 of the Framework advises that less than substantial harm should be weighed against the public benefits

⁶ APP/J1860/A/06/2020758

of the proposal. The development would provide an additional self-build dwelling with the associated social and economic benefits both during and post construction. It would also accord with the Framework aim to boost the supply of housing and is on a small site that can make an important contribution to meeting the housing requirement for the area. However, as one dwelling the benefits would be limited.

25. The Framework advises that any harm to the significance of a designated heritage asset should require clear and convincing justification and that great weight should be given to the asset's conservation, irrespective of the level of potential harm. The public benefits of the proposal are afforded limited weight and, therefore, would not outweigh the effect of the development on the setting and the harm to the significance of the heritage asset.
26. Beyond the immediate setting of Thatchings the housing along Beauchamp Lane is in groups of buildings either side of the road. Near the junction with Upton Road the houses are on both sides of the road. There is, thereafter, a row of houses on one side and then a gap in the built form where there are undeveloped fields on both sides of the road. A second group of houses forms a row of built development which ends with Thatchings. The character of Beauchamp Lane is of groups of houses with open fields in between, rather than loose residential development.
27. The other houses in this group front Beauchamp Lane and have limited gaps between them. Thatchings is separated from this group by its side garden and the side garden and garage of the adjacent property. Beyond Thatchings are a couple of other houses and a barn conversion scheme. Behind and around the group of houses is open agricultural land. However, the appeal site does not form part of the rural land opposite or around the group of houses.
28. The appeal site is part of the residential setting of the row of properties, it is a gap in an otherwise built up group of houses. Both main parties also agree that the site meets the definition of Previously Developed Land within the Framework as, although the site is garden, it is within a rural area rather than a built up area. There are also no other similar gaps and such spaces between dwellings, and generous side gardens, are not a characteristic of the housing development along Beauchamp Lane. Although the proposal would result in the loss of the gap and side garden to the host dwelling it would partially fill an otherwise uncharacteristic gap in the group of houses. Moreover, the proposal would not project into the countryside around the group of houses and I have no substantive evidence that the development would result in the loss of roadside greenery.
29. In that regard the appeal before me is materially different to the appeal at Linden⁷ which would have extended the housing development beyond the groups of houses and onto land which the Inspector considered as part of the open countryside rather than as part of the residential setting of the adjacent row of properties.

⁷ APP/J1860/W/19/3224861

30. For the above reasons, I find that the proposed land use and the amount of development would not result in harm to the character and appearance of the open countryside location and, consequently would comply with Policy SWDP 25 of the SWDP which, amongst other matters seeks to ensure that development integrates with the character of the area.
31. Nevertheless, there would be harm to the significance of the listed building, even at this permission in principle stage. The harm is less than substantial but is not outweighed by the public benefits of the scheme. I, therefore, find that the proposed land use and the amount of development would not be appropriate with particular regard to the effect on heritage assets. For these reasons the proposal would fail to comply with Policies SWDP 6, SWDP 21 and SWDP 24 of the SWDP which, taken together seek to conserve and enhance heritage assets, protect their contribution to the character of the landscape, ensure that development integrates effectively with its surroundings, and enhances heritage assets and their settings.

Other Matters

32. The proposal would provide one additional self-build plot. The Housing and Planning Act 2016 sets out that local planning authorities have a duty to grant planning permission in respect of enough serviced plots of land to meet the demand for self-build and custom housebuilding in the authority's area arising in each base period.
33. The appellant has challenged the supply figure quoted in the officer report. The appellant has based their evidence on the figures in Table 1 of the Malvern Hills District Self-Build and Custom Housebuilding Register Progress Report, dated November 2023 (the 2023 Progress Report). Whereas the Council Officer report quotes figures from the Wychavon District Self-Build and Custom Housebuilding Register annual progress report.
34. Although Wychavon District may have granted permission for more plots than the identified need, the appeal before me lies within the Malvern Hills District. On the basis of the evidence there is, therefore, a shortfall in self/custom build dwellings in Malvern Hills and the Council has not provided any evidence to the contrary.
35. Moreover, the provision is not a maximum, the demand figure will likely increase, and there is little evidence that all of the permissions already granted would be built out. The provision of one additional unit of this type would accord with Paragraph 63 of the Framework through providing an opportunity for people wishing to commission or build their own home. Given the shortfall in supply I have given the provision of self/custom-build housing substantial weight in my decision.

Planning Balance

36. The Council has confirmed that it is unable to demonstrate a five-year supply of deliverable housing land and have suggested a supply figure of 3.31 years. As the Council's emerging Local Plan is now at Regulation 19 Stage, the latest revisions to the Framework require a four-year housing land supply. Although the published figure is not a significant shortfall it is still a

shortfall which is below four years. Paragraph 11d) of the Framework therefore applies.

37. Moreover, there is no reference to self/custom build housing within the SWDP. Having regard to the importance attached to the provision of this form of development in the Framework, due to there being no relevant development plan policies for self/custom build housing, paragraph 11d) also applies. From the evidence before me this will be addressed in the emerging South Worcestershire Development Plan, but this has not yet been adopted and, therefore, carries little weight.
38. However, the appeal before me is materially different to the two appeals quoted in the appellant's planning statement⁸ neither of which identified any other harm other than the sites being outside of the settlement boundaries.
39. Paragraph 11d) of the Framework sets out the presumption in favour of sustainable development. This includes, in summary, that where the policies which are most important for determining the application are out of date or silent, permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the development proposed. The policies referred to in this part of the Framework are set out in footnote 7 and include designated heritage assets.
40. In this case, the appeal development would cause harm to the significance of the Listed Building, which is a designated heritage asset, and this harm, albeit less than substantial, would not be outweighed by the public benefits, including the substantial weight I have attributed to the provision of self/custom build housing in an area with an identified shortfall. The historic environment policies within the Framework provide a clear reason for refusing the proposal. Consequently, the presumption in favour of sustainable development as set out in paragraph 11d) of the Framework does not apply.

Conclusion

41. For the reasons given above the appeal should be dismissed.

K Townend

INSPECTOR

⁸ APP/H1840/W/20/3255350 & APP/H1840/W/19/3241879