



Appeal Decision

Site visit made on 28 August 2024

by M Aqbal BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 October 2024

Appeal Ref: APP/H1840/W/23/3332457

Land to rear of Northwick Road, Evesham

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Ryan Thomas against the decision of Wychavon District Council.
 - The application Ref is W/23/00479/FUL.
 - The development proposed is erection of 3 two bed dwellings.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are: i) The effect of the proposal on the character and appearance of the area; ii) whether the proposal would incorporate acceptable access arrangements; iii) the effect of the proposal on the living conditions of neighbours; iv) the effect of the proposal on trees; and v) the effects of the proposal on ecology.

Reasons

Character and appearance

3. Although the appeal site is in a residential block, formed by Northwick Road, Lime Street, Kings Road and North Road, the dwellings in this area are mainly arranged to face these roads providing a distinctive rhythm of street frontages.
4. In contrast, the appeal site is located to the back of existing dwellings and is adjacent to gardens. Consequently, the proposal would introduce a form of backland development. Moreover, the proposed dwellings would be located some 80m from the Lime Street road frontage and would be accessed via a private service lane. Because the proposed dwellings would face the service lane, they would not have the legibility associated with the majority of the existing built development in the area.
5. The proposed arrangement would not be consistent with the prevailing pattern of development in the area. Therefore, the proposal would introduce a piecemeal form of development that would not harmonise with the surrounding built forms. This reflects poor design and would harm the character and appearance of the area.
6. There is an existing block of 3 dwellings located approximately 40m south of the appeal site. These dwellings are also accessed off the service lane but are located closer to Lime Street. Also, the part of the service lane leading to these

dwelling from Lime Street incorporates a footway for pedestrians and a paved area for vehicles. As such, there is a good physical connection with the public highway from the existing development and therefore this is less divorced than the proposed scheme. Irrespective, the existing block of development is uncharacteristic of the area.

7. For the above reasons, the proposal is contrary to Policy SWDP 21 of the South Worcestershire Development Plan ('DP') which amongst other things, requires development to be of a high design quality, that integrates effectively with its surroundings, in terms of form and function, and reinforces local distinctiveness. Also, that development proposals must complement the character of the area. In particular, that development should respond to surrounding buildings. This is consistent with the Framework, which says that new development should be of high quality design and contribute positively to making places better. Also, that buildings are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion – for example through the use of beautiful, well-designed, clear and legible pedestrian and cycle routes.

Access

8. The development is proposed to be accessed by the existing service lane via Lime Street, to the south of the site. However, the appeal site and the service lane can also be accessed from other nearby roads. The service lane comprises an unmade shared surface, except for a limited section of footway provision from the junction with Lime Street to the existing block of three dwellings.
9. The service lane is largely unlit and in part is particularly narrow. There are also limited turning areas and opportunities for two vehicles to pass. Also, there is nothing to suggest that the appellant has any control over the use of the service lane and therefore there is no certainty that this is always free of other obstructions such as parked vehicles. As such, motorists are likely to have to undertake turning and reversing movements in confined areas. I also note that the Council has expressed concern that some of the exits off the service lane do not incorporate the required visibility splays. Based on these reasons, my observations and the submissions before me, the service lane is mainly of a substandard quality in terms of its form and arrangement.
10. I acknowledge that the service lane already serves the three dwellings. However, as already stated these include dedicated access arrangements off Lime Street. There are also a number of garages, storage buildings and parking areas located off the service lane which serve nearby dwellings. Based on the appellants Transport Statement, there is no recent pattern or history of collisions in the immediate locality of the appeal site and the existing arrangement appears to operate safely in terms of highway safety.
11. However, as a consequence of the proposal, the number of dwellings directly accessed off the service lane and using the existing access junction between this and Lime Street and other junctions would be doubled. Future occupiers and visitors to the proposed dwellings, which could include more vulnerable users, such as children and persons with disabilities would be required to regularly use the service lane for access.
12. In view of the substandard quality of the service lane, along with the increase in pedestrian and vehicular activity arising from the proposal, I have strong

concerns that the proposal would result in an increase in the risk of conflict between vehicular traffic and pedestrian and other users of the service lane and neighbouring roads. Moreover, because the service lane is largely unlit, such conflict is more likely during times when daylight is reduced.

13. Refuse collection is proposed on-street from along Lime Street. Therefore, residents would be required to move their bins from their property to the kerbside of Lime Street on collection days. This arrangement means that the carry distances for future residents of the proposed dwellings are beyond those set out in Manual for Streets. Whilst this document is guidance, Policy SWDP 4 of the DP, amongst other things says that new development should have regard to the design criteria and principles set out in Manual for Streets, Worcestershire County Council's Local Transport Plan, and Worcestershire County Council's Highways Design Guide. As such, I attach significant weight to such requirements.
14. The appellant has suggested the use of a sprinkler system for the proposed development, which could be secured by a condition if this appeal is allowed. This, along with the potential use of smaller fire appliance vehicles would ensure that the location of the development would be acceptable in respect of fire emergency situations.
15. Nevertheless, for the above reasons, I cannot be certain that in light of the proposal, the scheme would provide a safe and convenient access arrangement for the occupiers of the proposed development and other users of the access. The proposed refuse collection arrangements would also be unsatisfactory. Therefore, this would be contrary to the provisions of DP Policy SWDP 21. Amongst other things, this Policy says that the design and layouts should maximise opportunities for pedestrian and cycle linkages to the surrounding area and local services and should be generally accessible for all users, including those with disabilities and that opportunities for creating a safe and secure environment and providing surveillance should be included, principally through the layout and positioning of buildings, spaces and uses. This echoes the Framework, which requires that that safe and suitable access to the site can be achieved for all users. Accordingly, the proposal also conflicts with DP Policy SWDP 4.

Living conditions of neighbours

16. The proposal would introduce a two-storey development with first floor bedroom windows adjacent to the gardens of dwellings (48 and 56 Northwick Road) either side of the appeal site.
17. The rear gardens associated with the above dwellings are particularly deep. In relation to these gardens the depth of the proposed development would be limited and this would be located towards the end of the neighbouring gardens. Consequently, the proposed dwellings would be located an appreciable distance from the rear of the neighbouring dwellings and gardens areas closest to these, which are most likely to be used for amenity purposes. Because of this arrangement, I am not persuaded that the proposed dwellings would result in any unacceptable impacts in respect of outlook, overshadowing and loss of light, in respect of neighbouring gardens.
18. Any overlooking from the proposed first floor bedroom windows would be from a distance and indirect. Also, I observed that because the appeal site is in a

built-up area, a degree of mutual overlooking already exists between dwellings and the proposed development would not unacceptably worsen this.

19. For the above reasons, I am satisfied that the proposal would not harm the living conditions of neighbours and therefore would not conflict with DP Policy SWDP 21, which amongst other things and consistent with the Framework, requires that development should provide an adequate level of privacy, outlook, sunlight and daylight, and should not be unduly overbearing.

Trees

20. At the time of my visit, the appeal site had been largely cleared and there was no trees within it. There are trees on land outside but adjacent to the appeal site. In particular, those that could be effected by the proposed development are located in the garden to the south of the appeal site.
21. However, no details have been submitted of the trees on the adjoining land and therefore without details of the crown spread or root protection areas it is unclear what impact the development would have on these trees. Furthermore, because the proposed development would be located very near to neighbouring gardens, I am not persuaded that this matter should be dealt with by planning conditions.
22. As such, insufficient information has been provided to show that the proposal would not have an adverse impact on neighbouring trees. This is contrary to the aims of DP Policy SWDP 21. Along with other matters, this Policy requires that development proposals complement the landscape quality of the local area. The Framework also requires that existing trees are retained wherever possible.
23. The Council's decision also refers to DP Policy SWDP 25. However, this Policy largely deals with matters of 'Landscape Character' and in my view is not directly relevant to safeguarding trees.

Ecology

24. The mandatory requirement for Biodiversity Net Gain in respect of small sites (non-major) came into effect from 2 April 2024. The application for development was made before this date. Accordingly, the appeal scheme is exempt from the mandatory requirement for Biodiversity Net Gain.
25. However, the Framework requires that decisions should contribute to and enhance the local environment in a number of ways, including provision of net gain in biodiversity.
26. Based on the submitted Walkover Survey, the habitats which were present on the site were of low to negligible ecological value. These habitats also had limited potential to support protected or notable species, such as bats, birds, reptiles, and small mammals, such as badgers and fox. Nonetheless, some enhancements are recommended in the Walkover Survey. In addition, some landscaping is shown on the submitted plans. These would provide opportunities to enhance the site's biodiversity and could be secured by appropriate planning conditions if the appeal succeeds.
27. As such, the proposal would enhance the ecology of the site and area. Therefore, I find no conflict with DP Policy SWDP 22, which says that

development should, wherever practicable, be designed to enhance biodiversity and geodiversity. This is also consistent with the aims of the Framework.

Other Matters

28. The Planning Practice Guidance identifies the information which should be included on a location plan. Amongst other things, this says that: 'The application site should be edged clearly with a red line on the location plan. It should include all land necessary to carry out the proposed development (eg land required for access to the site from a public highway, visibility splays, landscaping, car parking and open areas around buildings).'
29. The appeal site as edged red on the location plan does not include land which is necessary for access from the public highway to the appeal site, which in this case largely comprises the service lane. If I were minded to allow the appeal, I would need to consider this matter further, because without this land, if allowed, there is no certainty that the planning permission could be implemented.
30. The appeal site was previously granted consent as part of a larger site for: 'Outline application for the demolition of sheds and buildings and construction of 13 no. houses and surfacing track'. On the limited information available to me, this scheme was a larger redevelopment proposal and included the service lane and highways improvements including road widening, re-surfacing, new pedestrian footways and visibility improvements to access ways. As such, this scheme is not directly comparable to the proposal before me. In any event, this outline permission has lapsed. Therefore, this attracts limited weight and does not alter my findings on the main issues.
31. The appellant suggests that the appeal site is brownfield land. The definition of this in the Framework, includes land which is or was occupied by a permanent structure. However, because I have no substantive evidence of this, I attach limited weight to this.

Other Considerations

32. The Council's housing land supply stands at about 3.81 years. Consequently, Paragraph 11d) ii of the Framework applies. This states that where relevant policies are out of date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
33. The proposal would make use of a vacant site which is in a location that is near to public transport, shops and services. Moreover, the proposal would provide 3 new dwellings, which would contribute towards the provision of housing in the District. This would accord with the aims of the Framework of making effective use of a small windfall site and boosting significantly the supply of homes and would be a social benefit.
34. There would also be jobs created during construction of the development. When complete, occupiers of the development would also support local shops and facilities. There would also be some environmental benefits arising from the proposal.

Planning balance and conclusion

35. I have found that the proposed development would harm the character and appearance of the area and fails to provide an acceptable access. It has also not been shown that the proposed development would not harm nearby trees. Conflict with the relevant policies amounts to harm. The most relevant policies of the DP in determining this appeal are broadly consistent with the aims of the Framework. As such, I attach substantial weight to the conflict with the development plan and the harm identified.
36. On the other hand, the development would not harm the living conditions of neighbours and is likely to enhance the ecology of the site and area. The proposal would also secure 3 new dwellings. In light of the Council's housing land supply position, I give the proposed housing significant importance. This, and the benefits associated with it, weigh in favour of the proposal, and I afford them moderate weight given the modest scale of the proposal (3 additional dwellings).
37. As a result, when assessed against the policies in the Framework, the adverse impacts associated with the proposal, significantly and demonstrably outweigh the benefits arising from this. Consequently, the presumption in favour of sustainable development does not apply and this indicates that planning permission should be refused and the appeal dismissed.

M Aqbal

INSPECTOR