



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: 09 December 2024

Appeal Ref: APP/W1850/W/23/3330015

Mirrorbrook, A4103 from Old Roman Road to Halesend Grittles End, Cradley, Herefordshire WR13 5JB

- 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 A Parkhill against the decision of Herefordshire Council.
 - The application Ref is 230767.
 - The development proposed is erection of 3no. dwellinghouses.
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Decision

1. The appeal is dismissed.

Background and Main Issues

2. One of the Council's reasons for refusal, alleges that the proposal would harm the setting of a Grade II listed building, Birch Cottage, which is located to the east of the appeal site along the B4220. In light of the appeal submissions, the Council accepts that the proposal would have no demonstrable impact upon the setting of designated heritage assets and is not pursuing this reason for refusal. However, the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to pay special regard to the desirability of preserving listed buildings and their setting. Therefore, I shall deal with this matter under my first main issue.
3. Accordingly, the main issues are:
 - i) The effect of the proposal on the character and appearance of the area, including the setting of the Malvern Hills Area of Outstanding Natural Beauty ('AONB') and nearby heritage asset.
 - ii) Whether the site is a suitable location for housing; and
 - iii) Whether the proposal makes acceptable provision for drainage.

Reasons

Character and appearance

4. The appeal site lies in a rural edge of settlement location immediately adjacent to the A4103 and the B4220. This location is also outside the Malvern Hills AONB which lies to the east but is within its setting.
5. The surrounding area is semi-rural and open in character with dispersed rural buildings and houses surrounded by fields, with a more linear form of

development on the east side of the B4220. This includes Birch Cottage, which also forms part of the adjacent settlement of Cradley.

6. The appeal site forms part of a larger landholding of about 1.51ha which was historically a single field in agricultural use. In 2009, planning permission was granted to turn the southern and north-eastern parts of the field into a horticultural nursery. This included the erection of a polytunnel, agricultural building, roadway and hardstanding. Since then, planning approvals have been granted to build five detached dwellings with an access drive within the south-eastern corner of the field. These properties, occupy about 22% of the larger land holding and collectively this development is known as Mirrorbrook. The appeal site is mainly enclosed on its roadside boundaries by a combination of mature and new hedging and trees. The western boundary is open and the site merges into the wider field.
7. Parts of the appeal site comprise areas of hardstanding and at the time of my visit these were mainly being used for parking and storage in association with the existing development at Mirrorbrook. There has also been some appreciable remodelling of the landform associated with the appeal site.
8. Notwithstanding the present temporary use of the appeal site, the appellant asserts that the 2009 planning permission has been implemented and is extant.
9. Based on the submissions before me, I cannot be certain that the 2009 planning permission was implemented. Even if I were to accept that this was implemented, on the level of information available to me, I cannot be certain that the approved development would have been more prominent in the landscape, as suggested by the appellant.
10. Whilst I acknowledge that the Council has supported development on the appeal site, this is for a form of agricultural use, which would not be uncommon in a semi-rural and edge of settlement location. Furthermore, because the appeal site is free of any permanent and substantial development at present, this has a stronger visual relationship with the wider undeveloped parts of the landholding. Together, these provide some space and visual relief to the Mirrorbrook development.
11. The Cradley Parish Neighbourhood Development Plan 2017 ('NDP') includes a landscape assessment, to determine the potential capacity of separate parcels of land surrounding Cradley village "to accept new residential development, from a landscape and environmental perspective". Furthermore, Policy CNDP 2 of the NDP, supports housing development adjacent to settlement boundaries, which make a positive contribution to their landscape setting. The NDP defines appropriate sites as having a moderate, high or very high capacity to accommodate development.
12. Although the details of the landscape assessment are not before me, the appellant's landholding (blue line area) is assessed as having low / very low capacity to accommodate development. This is likely because of its prominent and elevated position, positive contribution towards the semi-rural setting of Cradley and towards views of the Malvern Hills AONB when travelling east on the A4103.

13. The proposed development would comprise three, single storey detached family dwellings. These would be clad in timber and are to incorporate flat green roofs.
14. The application is accompanied by a Landscape and Visual Impact Statement ('LVIS') as well as a Landscaping Master Plan.
15. At a local level, the appeal site largely forms part of the Principal Timbered Farmland type, which amongst other characteristics includes a mosaic of small to medium sized fields and hedgerows. I also concur with the findings of the LVIS, that the Landscape Quality of the appeal site is ordinary.
16. In terms of Landscape Value, the appeal site occupies an elevated position on the corner of the A4103 and the B4220 which leads into Cradley and forms part of the setting to the Malvern AONB to the east. In particular, the A4103 and the parallel and adjacent footpath represents a special route corridor and important view when travelling in an easterly direction. These views are captured in the LVIS as Viewpoints 5 and 6 and based on my observations provide orientation and attractive panoramic views of the Malvern Hills. In the vicinity of the appeal site, these views are experienced and enjoyed from this footpath but also by people travelling in vehicles along the A4103.
17. Given the national importance associated with AONBs and because the appeal site forms part of the setting of Malvern Hills AONB, I consider its Landscape Value greater than Very Low, set out in the LVIS. Accordingly, site's Landscape sensitivity, is greater than that identified in the LVIS.
18. The proposed dwellings are of a simple and contemporary design. There are examples of contemporary buildings in proximity of the appeal site, including those at Mirrorbrook. However, the form and materiality of the proposed dwellings is different to those to the south. Even so, this contrast would largely be apparent from within Mirrorbrook. Furthermore, the shared access and appearance of retaining walls would provide a degree of continuity between the existing and proposed developments.
19. Nevertheless, the proposal would introduce three sizeable new buildings, an extension of the existing road layout, the engineering of the appeal site, along with retaining structures, enclosures and acoustic fencing. These, in combination with the existing five dwellings, would result in a cul-de-sac of development which would not reflect the generally linear form of development beyond the centre of Cradley.
20. The proposed scheme in combination with the extant housing would result in development on nearly half of the wider landholding and further encroachment of built development and urbanisation of the site and settlements semi-rural character. The proposed development would also be on more prominent parts of the site and closer to Viewpoints 5 and 6, than the extant development.
21. The scheme proposes landscaping to limit views into the site and screen the development. This, however, would take time to establish. In particular, in relation to the existing access off the A4103. Whilst the proposed green roofs are intended to assimilate the development with its surroundings, there is limited details and specifications for these.
22. In particular, the appeal site's contribution to the landscape setting of the Malvern Hills AONB is most evident in localised views. During winter months

when leaf cover would be reduced, the proposed development would be appreciable in nature and scale and because of its prominent location this would not assimilate with its semi-rural context. This would significantly dilute the important view and compromise the setting of the Malvern Hills AONB.

23. I acknowledge that the development at Mirrorbrook has resulted in a reduction in the degree of the site's sensitivity to change when viewed in the context of these adjoining dwellings. Nonetheless, I do not find that this has changed when taken in the context of the surrounding area and prominent location with views of the Malvern Hills AONB beyond. In my opinion, the appeal site due to its more elevated and prominent position, visible from the wider area and upslope from the adjacent development, still has a low capacity for change. Notwithstanding that the appeal site's degraded state would receive some benefit from the proposed landscaping, for the reasons I have set out above, the proposal in this location would harm the character and appearance of the area, including the setting of the Malvern Hills AONB.
24. Birch Cottage is a timber framed dwelling that dates back to the 17th century. This has previously been extended which has considerably enlarged the original cottage. Despite its modern extension, the features of the original cottage are retained, and its character remains that of a traditional, rural cottage. The cottage is set within a wider agrarian landscape, with the immediate area, characterised with farmland, hedgerows and dispersed development. The agrarian character of the wider area which contributes to the setting of this listed building, largely relates to fields to the rear of Birch Cottage and to a lesser extent includes the appeal site and the landholding that this is a part of.
25. The intervisibility between Birch Cottage and the appeal site is mainly apparent from along parts of the B4220. Despite the retention of the mature hedgerow along the eastern boundary of the appeal site, the access and some of the existing dwellings at Mirrorbrook are also apparent in views from along the B4220 and the presence of these has resulted in some urbanising and diluting of the agrarian setting to Birch Cottage.
26. Whilst the proposal introduces additional dwellings, these would be single storey in height and largely screened from the B4220 and Birch Cottage by the existing landscaping. Therefore, the proposal would not result in any harm to the setting of Birch Cottage over and above the extant development at Mirrorbrook. As such, the proposal would preserve the setting of the Grade II listed building. It would therefore not conflict with Policies SS6 and LD4 of the Herefordshire Local Plan Core Strategy 2015 ('CS') and Policy CNDP 9 of the NDP, as far as these seek to preserve and enhance heritage assets.
27. Nonetheless, the proposal would harm the landscape setting of Cradley and would undermine the setting of the Malvern Hills AONB. As such, the proposal is contrary to CS Policy LD1. Amongst other things, this Policy requires that proposals demonstrate that the character of landscape and townscape has positively influenced, the design, scale, nature and site selection, protection and enhancement of the setting of settlements and designated areas. Accordingly, I also find conflict with CS Policy SD1. Amongst other things, this Policy says that development proposals should create well-integrated environments.

28. The proposal would also conflict with NDP Policy CNDP 2. I also find conflict with the design aims of NDP Policy CNDP 9, which supports proposals which strengthen the distinctive character of the plan area.

Location for housing

29. The Council's strategy for managing housing growth outside the main settlements is set out in Policy RA2 of the CS. This Policy supports housing growth in or adjacent to settlements which have been identified to be the main focus of proportionate housing development, where certain criteria are met. These relate to design and layout, use of brownfield land, context and landscape setting, and the provision of an appropriate housing mix reflecting local demand.
30. Policy RA2 of the CS states that the minimum growth target in each rural Housing Market Area will be used to inform the level of housing development to be delivered in the various settlements. Further, that Neighbourhood Development Plans will allocate land for new housing or otherwise demonstrate delivery to provide levels of housing to meet the various targets.
31. Housing development outside defined settlements is within the countryside where development is restricted. Policy RA3 of the Core Strategy permits residential development in rural locations where the proposal requires a countryside location, such as development for agricultural or forestry, rural enterprise workers, is a replacement dwelling, would make use of redundant or disused buildings, is a rural exception housing, is of exceptional quality and innovative design or meets the needs of gypsies or other travellers.
32. The NDP defines the settlement boundary for Cradley. This is a settlement where proportionate housing development would be acceptable. The appeal site is adjacent to but outside the defined settlement boundary of Cradley and therefore within the countryside for planning purposes.
33. As already stated, Policy CNDP 2 of the NDP, supports housing development adjacent to settlement boundaries, which make a positive contribution to their landscape setting. The NDP defines appropriate sites as having a moderate, high or very high capacity to accommodate development.
34. Although the appeal site is adjacent to the settlement boundary, based on my findings in respect of the first main issue, I still consider this as having a low capacity to accommodate development and that the proposal would not make a positive contribution to the areas landscape setting.
35. As such, the proposed location for housing is unacceptable and this is contrary to CS Policies RA2 and RA3 and Policy CNDP 2 of the NDP. The proposal is also not supported by NDP Policy CNDP 1, which says that proposals for housing development will be supported within the settlement boundaries defined on the Cradley village Policies Map and CS Policy SS2 which generally supports new housing in existing settlements. Accordingly, I also find conflict with Policy SS1, which only permits development that accords with the development plan.

Drainage

36. The appeal site is located within the low-risk Flood Zone 1. Also, whilst the NDP identifies areas of flood risk in the local area, these do not include the appeal site.

37. Although site specific infiltration testing has not been undertaken, based on the Mirrorbrook site, soil conditions have been found not to be favourable for discharge through ground infiltration. Therefore, a surface water discharge to ground is also unlikely to be acceptable for the appeal site.
38. As such, the surface water drainage proposal involves attenuation via underground holding crates with a limited discharge to the adjacent brook to the south. This would be similar to the surface water drainage strategy for the adjacent site, which was approved by the Council and has subsequently been implemented. Foul water drainage would be via the existing arrangement associated with the Mirrorbrook development.
39. I acknowledge that the surface water drainage proposal does not include the specific details required by the Council. Nevertheless, given the low risk of flooding associated with the appeal site and because an acceptable surface water drainage solution has been achieved at the Mirrorbrook site, details relating to the proposed surface water drainage strategy could be secured by way of a planning condition if the appeal were to succeed.
40. For the above reasons, the proposal could be designed to accord with Policy SD3 of the CS, which amongst other matters seeks to ensure that new development should reduce flood risk and that any development that would result in increased flood risk to properties elsewhere will not be permitted. Accordingly, the proposal would also meet the objective of CS Policy SD4. This Policy requires that developments do not undermine the achievement of water quality targets for rivers within the county.

Other considerations

41. Despite the appellant's concerns about the Council meeting its 5-year housing land supply in the future, on the information before me, at present, the Council's housing land supply position is more than 5 years. Nevertheless, the proposal would positively contribute towards the Council's housing land supply and this would boost the delivery of homes in accordance with the National Planning Policy Framework ('the Framework').
42. The proposal would create employment during the build phase. Thereafter, new residents would enhance or maintain the vitality of rural communities, in accordance with the Framework. The scheme would also deliver new landscaping and these would secure some environmental and biodiversity enhancements. Also, the proposal would result in the cessation of a vehicular access onto the A4103, which is likely to improve highway safety.
43. When taking the Council's position on housing land supply and given the modest scale of the development (3 dwellings), this and the benefits associated with it attract less than moderate weight.

Conclusion and planning balance

44. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that decisions on planning applications should be made in accordance with the development plan unless material considerations indicate otherwise.
45. I have found that a suitable surface water drainage solution is likely to be available for the proposed development and that the proposal would not harm a nearby heritage asset. Nevertheless, the proposal would harm the landscape

setting of Cradley and would also undermine the setting of the Malvern Hills AONB. Furthermore, the appeal site is not in a suitable location for housing having regard to the spatial strategy for the area, as set out in the development plan.

46. The harm associated with the above matters and conflict with the development plan attract substantial weight.
47. Having taken account of the other considerations in support of the proposal to which I attach less than moderate weight, I do not consider these to be sufficiently forceful, to outweigh the harm and conflict with the development plan I have identified. Consequently, in the circumstances of this case, the material considerations do not justify a decision other than in accordance with the development plan taken as a whole.
48. For the above reasons, I conclude that the appeal should be dismissed.

M Aqbal

INSPECTOR