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## Appeal Decision

Site visit made on 15 January 2025

by **S Rawle BA (Hons) Dip TP Solicitor**

an Inspector appointed by the Secretary of State

Decision date: 13 February 2025

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**Appeal Ref: APP/J1860/W/24/3348378**

**Cotford Hotel, 51 Graham Road, Malvern, Worcestershire WR14 2HU**

- 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 and Mrs C Morgan against the decision of Malvern Hills District Council.
  - The application Ref is M/23/01654/FUL.
  - The development proposed is the erection of 1 no. self-build dwelling, with associated access and landscaping.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are:
  - Whether or not the proposed development would preserve or enhance the character or appearance of the Great Malvern Conservation Area;
  - Whether or not the proposed development would preserve the setting of Cotford Hotel which is a non-designated heritage asset; and
  - Whether or not an appropriate surface water drainage system would be provided at the appeal site.

### Reasons

#### *Character and appearance*

3. The appeal site is located within the Great Malvern Conservation Area (GMCA) where nine-character areas have been identified in the GMCA appraisal and management strategy (GMCAAMS). The appeal site is located within the Regency Malvern character area, and I agree with the GMCAAMS when it says that Graham Road appears to be the dividing line between the Victorian part of town and the Regency part. Along Graham Road the character is quite uniform and many of the properties appear to be from the Victorian period on large plots with linear development located along the road, but there are also examples of more modern development.
4. The significance of this part of the GMCA derives from the enduring historic pattern of development and the interest in the built form with particularly attractive period properties set on large plots arranged in a linear form along the road, which provide both aesthetic and historical value. The arrangement of the houses, many on large

plots creates a sense of spaciousness which makes a significant contribution to the character and appearance of the area.

5. The appeal site and the adjacent hotel is compatible with the character and appearance of the area comprising a substantial Victorian villa on a spacious plot. The appeal site forms part of the existing side garden of the hotel.
6. Although I observed that many of the properties along the road sit comfortably on their plots, the appeal site was not typical of the houses along the road as its large garden area to the side was not a common feature in the streetscene and even where there were plots with gaps to the side, such as at 35 and 53 Graham Road, infill development, to the side of these period properties was visible which also help to define the existing character of the area.
7. The proposal would introduce a dwelling onto the existing side garden. The architectural design and the proposed materials would be compatible with this setting. Although I accept that properties to the side of period houses are not an uncommon feature in the streetscene, the proposed development would be set in from the side boundaries on either side of the appeal site by only a relatively small distance. I accept that the scale of the proposed development has been designed to be subservient to the scale and massing of the existing hotel. However, given how close the side elevations would be to the appeal site boundary on either side, the proposed development would appear unacceptably cramped on the plot. Such an arrangement would undermine the existing sense of spaciousness which is such an important feature of the area.
8. Consequently, the proposal would neither preserve or conserve the character or appearance of the GMCA. The National Planning Policy Framework (the Framework) advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to their conservation. Given the nature of the proposal, I consider the degree of harm to the significance of the conservation area in this case would be less than substantial.
9. I therefore conclude that the proposal would result in less than substantial harm to the GMCA which is a designated heritage asset. As a result, the proposal would conflict with Policies SWDP 6, SWDP 21 and SWDP 24 of the South Worcestershire Development Plan adopted February 2017 (SWDP) which among other things seek to ensure development conserves and enhances the significance of heritage assets, integrates effectively with its surroundings and that development proposals that affect heritage assets will be considered in accordance with the Framework and other relevant legislation and guidance. It follows that I afford great weight to the impact the proposal would have on the GMCA.

#### *Effect on non-designated heritage asset*

10. As outlined above, the appeal site forms part of the former side garden of Cotford Hotel which is identified in the GMCAAMS as an unlisted building of local interest and is a non-designated heritage asset. The significance of this building derives from its historic form and period design features. The spaciousness associated with the side garden contributes to its setting.
11. Similar to my assessment in relation to the overall impact of the proposed development on the GMCA, although new development within gaps is not an uncommon feature, for the reasons set above the introduction of this proposed

building would appear cramped on the appeal site and would undermine the existing sense of spaciousness. It follows that such a cramped development would harm the setting of this non-designated heritage asset.

12. In considering the effect on the significance of non-designated assets, the Framework advises that a balanced judgement will be required having regard to the scale of any harm.
13. As outlined above, the architectural design and the proposed materials would be compatible with this setting and the scale of the proposed development has been designed to be subservient to the scale and massing of the existing hotel. As a result, I consider the proposal would result in moderate harm to the significance of Cotford Hotel and I will undertake an overall balanced judgement on that basis later in the decision.
14. I therefore conclude that the proposal would result in moderate harm to the significance of Cotford Hotel which is a non-designated heritage asset. Consequently, the proposal would conflict with policies SWDP 6, SWDP 21 and SWDP 24 of SWDP which among other things seek to ensure development conserves and enhances the significance of heritage assets and that development proposals that affect heritage assets will be considered in accordance with the Framework and other relevant legislation and guidance.

### *Drainage*

15. The appeal site is located within an established residential area. I have carefully considered the comments from the relevant engineer at the SW Land Drainage Partnership, which were in the form of a number of questions followed by advice that the appellant would need to follow a sustainable approach to surface water management (SuDs). I can also understand that based on the information provided at the application stage, he sought further information.
16. I agree that a satisfactory SuDs approach would be required. However, taking account of the information provided during the appeal process, given the topography of the site and taking account of the significant amount of land that is within the ownership of the appellant, I am satisfied that there would be enough space to ensure that a satisfactory SuDs could be provided to serve the proposed development. On that basis, I consider that if in all other respects the proposed development had been acceptable, a suitably worded condition could have been imposed to ensure that an appropriate drainage system to prevent flooding risk could have been achieved to serve the proposed development.
17. I therefore conclude that an appropriate surface water drainage system would be provided at the appeal site. Consequently, the proposal would not be at odds with Policies SWDP 29 and SWDP 30 of the SWDP which among other things seek to ensure that development proposals manage surface water through a SuDS and that developments take adequate account of water resources, efficiency and treatment.

### **Other Matters**

18. In relation to housing supply, the appellant sets out that based on the Council's housing figures the Council only have a housing land supply figure of 3.47 years. Further I am aware that the standard method as required in the latest version of the

Framework will likely significantly reduce that figure. Consequently, I have determined this appeal on the basis that the Council's housing land supply figure is significantly below Government's expectations. However, although the proposal would undoubtedly be valuable in boosting housing stock in circumstances where there is an existing significant shortfall, given that it would only result in the addition of one dwelling that tempers its weight.

19. I accept that the proposal would have a cumulative effect on the supply of housing and would have some economic, social and environmental benefits. For example, it would provide some jobs and create demand for materials during the construction phase, would broaden the availability of housing in the area and once occupied would support the town's services and facilities. I also accept that the proposal would make efficient use of the appeal site within Malvern which is categorised as a main town in Policy SWDP 2 of the SWDP where housing development including infill development is envisaged within the defined development boundaries.
20. Further, I note that it is intended that the proposal is for an additional self-build house in an area where there is demand for such development. The Council has a duty under the Self Build and Custom Housebuilding Act 2015 (as amended by the Housing and Planning Act 2016) to keep a register of persons who are interested in acquiring a self-build or custom-build plot, and to also grant enough suitable development permissions for serviced plots to meet identified demand for the district.
21. The Framework supports small sites to come forward for self-build and custom-build housing. The addition of a self-build dwelling on the appeal site would help to meet the demand for such housing in the area. However, again the weight afforded is tempered by the fact that the proposal would only result in one additional dwelling.
22. Moreover, at the application stage and originally as part of the appeal there was no planning obligation or other mechanism to secure some means of ensuring the proposal would be constructed for such use.
23. Given that the application was determined on the basis that the proposal was for a self-build dwelling, and it is on that basis that interested parties, and other consultees would have been consulted, it would not be fair to amend the proposal at this stage to for example a non-self-build dwelling. I have sought comments from the main parties on this issue which I have considered in the determination of the appeal.
24. I note that the appellant has made reference to a document from the Right to Build Task Force which included some examples of conditions that have been used in a previous appeal decision and in a Council's approval of an application. I have also taken account of the conditions suggested by both parties. However, as to my mind, monitoring and enforcing any of the example conditions that have been brought to my attention would be extremely difficult, a planning obligation would be necessary. As no obligation has been provided to secure the proposed dwelling as self-build this also tempers the weight afforded to this matter.
25. On that basis, taking account of the contribution the appeal scheme would make in addressing the housing land supply shortfall and other matters that weigh in favour of the proposal, I afford the totality of the benefits moderate weight.

## Planning Balance

26. I have afforded some matters weight as outlined above and overall, I afford the totality of the benefits moderate weight in the determination of the appeal. On the other hand, I afford the harm that the proposal would have on the GMCA and the setting of a non-designated heritage great weight and moderate weight respectively.
27. As set out above, the Council cannot demonstrate an adequate supply of housing land. As a result, Paragraph 11(d) of the Framework is relevant. However, for the reasons set out above, the application of policies in the Framework that protects designated heritage assets provides a strong reason for refusing the development proposed. Consequently, the presumption in favour of sustainable development, as set out in paragraph 11(d) of the Framework is disengaged and the scheme should be considered under a normal planning balance.
28. On balance I find the harm clearly outweighs the benefits. In reaching that view I have taken account of the most recent version of the Framework and as a result I have had particular regard to key policies including directing development to sustainable locations, making effective use of land and providing affordable homes, individually or in combination.
29. However, the latest version of the Framework does not alter my findings. That is because I have taken account of the contribution the proposal would have on boosting the supply of housing and the fact it would make effective use of the appeal site within Malvern. However, I have nevertheless found that overall, the application of policies that protects the GMCA provides a strong reason for refusing the proposed development and the harm associated with the proposal would clearly outweigh the benefits.
30. Given these findings particularly in relation to the impact the proposal would have on the GMCA, and the fact that this disengages paragraph 11(d), which has not changed from the previous version of the Framework, I did not consider it necessary to consult the parties on the changes contained in the latest version of the Framework, as for the reasons set out above the updated Framework would not have altered my findings.
31. In reaching my view on the appeal, I have taken account of the numerous previous appeal decisions that were included in the appendix of the planning statement that was submitted in support of the application. The majority of these demonstrate that Inspectors had found that the Council did not have a five-year supply of housing land. I have reached the same view. The others relate to proposals involving self-build housing.
32. Although these previous appeals are helpful as they set out how other Inspectors have dealt with housing land supply issues and proposals for self-build homes, they are all materially different from the appeal before me. For example, none involve a proposal within a conservation area where an Inspector has found that the application of policies that protects that conservation area, provides a strong reason for refusing the proposed development. As a result, the planning balance exercise undertaken in each of these previous appeal decisions is materially different and consequently they have limited weight in the determination of the appeal.

## **Conclusion**

33. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Consequently, the appeal should be dismissed.

*S Rawle*

INSPECTOR