



Appeal Decision

Site visit made on 4 February 2025

by K Townend BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th February 2025

Appeal Ref: APP/J1860/W/24/3352522

Land at Howsell Road, Malvern WR14 1TH

- 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 Charles Owen on behalf of Primary Industrial Properties Malvern Ltd against the decision of Malvern Hills District Council.
 - The application Ref is M/23/00716/CU.
 - The development proposed is change of use of land from redundant railway sidings to open storage, existing building used for office/storage to be retained and repaired.
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Decision

1. The appeal is allowed, and planning permission is granted for change of use of land from redundant railway sidings to open storage, existing building used for office/storage to be retained and repaired, at Land at Howsell Road, Malvern WR14 1TH in accordance with the terms of the application, Ref M/23/00716/CU, and the plans submitted with it, subject to the conditions in the attached schedule.

Applications for costs

2. An application for an award of costs was made by Mr Charles Owen against Malvern Hills District Council. This application will be the subject of a separate decision.

Preliminary Matters

3. The Government published a revised National Planning Policy Framework (the Framework) on 12 December 2024 with a further minor revision on 7 February 2025. Those parts of the Framework most relevant to this appeal have not been substantially amended. As a result, I have not sought submissions on the revised Framework, and I am satisfied that no party's interests have been prejudiced by taking this approach.
4. Both main parties have referred to the South Worcestershire Development Plan Review (the SWDP Review). The Council has advised that the plan was submitted to the Planning Inspectorate for examination in September 2023 and therefore the SWDP Review, and the policies therein, are a material consideration in the determination of planning applications. However, I cannot be certain if any policies are to be modified or when it is likely to be adopted. I, therefore, have considered the appeal against the adopted development plan policies.
5. The appeal proposal includes the retention and refurbishment of an existing building on the site. However, at the time of my visit, the building on site did not reflect either the existing or proposed plans. Nonetheless, as I have not been provided with any amended plans for the building as on site, I have determined the

appeal on the basis of the proposed development, as shown on the plan as submitted. Any discrepancies between the appeal scheme, and what is on site would be separate matters for the appellant and the Council to resolve.

Main Issues

6. The main issues are:

- whether the proposed change of use would be a suitable use, having regard to the development strategy for the area; and
- whether the proposed development would preserve or enhance the character or appearance of the area, including the Trinity and Malvern Link Conservation Areas and the Malvern Hills National Landscape.

Reasons

Use of land

7. The appeal site is a rectangular strip of land between the railway line and the houses on Redland Road. Access to the site is off Howsell Road, through an existing commercial site and underneath a railway arch. There are other industrial and commercial uses on the opposite side of the railway line and residential uses along and beyond Redland Road.
8. The appeal site is identified in the South Worcestershire Development Plan, February 2016 (the SWDP) as a protected Green Space. The trees around the site do provide some green screening for the housing and would provide a habitat for wildlife. However, the trees have been cut back and, therefore, provide limited green benefits. Moreover, the site is not publicly accessible and, given the hard standing surface and fencing, views of the site from the surrounding area do not provide a sense that the site is green space.
9. Although the appeal proposal has not provided an assessment that the site is surplus to requirements as Green Space, as required by Policy SWDP 38 of the SWDP, in my judgement the site does not contribute positively to the green spaces within Malvern urban area. It is not a well-designed, attractive, or functional open space which the policy seeks to protect, and it does not contribute positively to the quality and character of the local area. For these reasons, although there is a conflict with Policy SWDP 38 the re-use of the site would be acceptable.
10. The site is also identified in the SWDP as land safeguarded for transport infrastructure. Policy SWDP 4 requires development to be consistent with the delivery of the Worcestershire Transport Plan objectives and seeks to resist development that would prejudice the implementation of the transport schemes, including the urban transport package for Malvern. Policy SWDP 7 of the SWDP seeks to promote appropriate and proportionate infrastructure.
11. Worcestershire's Local Transport Plan 2018-2030 (the LTP) sets out the issues and priorities for investment in transport infrastructure. The site is identified as M4 – Malvern Link Station Car Park Expansion scheme and described as a potential future expansion of the car park. The site is an emerging concept where funding would be required. The LTP also notes that there is no guarantee that the schemes would come forward, or that funding would be obtained.

12. Policy MT2 of the Malvern Town Neighbourhood Plan 2015-2030 (the MTNP) seeks to support proposals for a transport interchange and park and ride facilities for Malvern Link Rail Station, subject to a number of criteria. The reasoned justification for the policy notes the appeal site as vacant land identified in the LTP for a car park.
13. The appeal proposal would be on the land identified in the LTP and the MTNP as the area proposed for the car park and would be for a use that is not car parking. Section H of SWDP 4 seeks to prevent development that would prejudice the implementation of the transport schemes. However, there is nothing within Policies SWDP 4, SWDP 7 or MT2 that prevent development of sites identified for transport infrastructure, providing the development would not prejudice the implementation of the scheme in the future.
14. The appeal proposal, albeit not an application for a temporary use, would be a use that could easily be removed should the Council obtain the funding required to implement the car park extension on the appeal site. Even if I were to give limited weight to the comments of the Highway Authority regarding the site within any future versions of the LTP and assess the scheme against the published LTP and the adopted policies, the proposed use would not prejudice the implementation of the transport scheme in the future. The land could be used for car parking, or as part of the transport interchange, if funding is secured.
15. Moreover, the proposed use would be an employment use on a brownfield site within the urban area of Malvern. The use would, therefore, be supported by Policies SWDP 1, SWDP 2 and SWDP 8 of the SWDP.
16. For the above reasons, the proposed change of use would be a suitable use, having regard to the development strategy for the area. It would, therefore, not conflict with Policies SWDP 4 or SWDP 7 of the SWDP or Policy MT2 of the MTNP, neither would it conflict with the land being safeguarded for transport infrastructure under the LTP.

Character and appearance

17. The appeal site lies outside, but adjacent to the Malvern Link Conservation Area, which includes the houses on Redland Road but not the appeal site. It is also close to, but outside, the Trinity Conservation Area which runs along the opposite side of Howsell Road and includes the commercial use across which access is gained to the site. Due to the proximity of the site to the two conservation areas I find that it lies within the setting of both.
18. Paragraph 219 of the Framework aims for development within the setting of a heritage asset to enhance or better reveal the significance of the asset. The Glossary to the Framework defines the setting of a heritage asset as the surroundings in which it is experienced.
19. The Trinity Conservation Area Appraisal and the Malvern Link Conservation Area Appraisal (the CAAs) support the understanding of the importance of each of the areas. As far as it is relevant to the appeal, I consider that the significance of the Trinity Conservation Area is mainly derived from the rich built environment of villas and smaller workers housing surrounding the historic common that forms its centre and key focal point and provides a distinctive character of both open space and built environment. The significance of the Malvern Link Conservation Area is

mainly derived from its linear form of the busy commercial street along Worcester Road and the quieter residential streets of terraced housing radiating off it, which includes Redland Road. The appeal site does not currently contribute positively to the setting of either conservation area.

20. The proposal is for storage containers at a single container height and to be finished in green with green fencing. The use would be set within the context of the railway line and other commercial uses around it and would be read as part of the commercial area along the railway, including as viewed by passengers on the trains. Albeit increasing the extent of development on the undeveloped site, the height of the containers would be lower than the commercial units opposite and the footprint of the containers would not be overly intensive. The materials, form and massing would reflect the commercial uses near the site, even though they are different to the housing on Redland Road. The proposed change of use would not be visually dominant or harmful to the character and appearance of the Trinity conservation area.
21. From the Malvern Link conservation area, the housing along Redland Road limits views of the site. Any glimpsed views would also be read as part of the commercial area around the appeal site. The proposed use would, therefore, not be harmful to the setting of the Malvern Link conservation area.
22. Overall, the proposed change of use, although changing the site, would not be visually dominant or harmful to the character and appearance of the area, including the conservation areas. For these reasons, the harm to the significance of the setting of both conservation areas would be less than substantial and the proposal would be an appropriate use on this transition site between the commercial uses and the residential townscape of Malvern Link.
23. The site lies outside the Malvern Hills National Landscape (formerly Area of Outstanding National Beauty). As it forms part of the urban area of Malvern it would form part of the setting in which the National Landscape is appreciated. Section 245 of the Levelling Up and Regeneration Act 2023 amended the duty in the Countryside and Rights of Way Act 2000 in relation to National Landscapes to require relevant authorities, in exercising or performing any functions in relation to, or so as to affect, land in a National Landscape to seek to further the purpose of conserving and enhancing the natural beauty of the National Landscape.
24. Given the topography of the site and surrounding area the appeal proposal would not be distinguishable from the surrounding urban area when viewed from the National Landscape. Moreover, subject to appropriate controls on lighting, the proposed use would not adversely affect the purpose of conserving and enhancing the natural beauty of the National Landscape.
25. Travellers arriving by train into Malvern Link station would view the site as part of the approach to the town, as part of the urban context of Malvern, and alongside the commercial uses on the opposite side of the railway line. The site does not form an open and green approach to the Malvern Hills and the visual impact of the proposal on travellers would not substantially harm their views of the National Landscape.
26. The line of a designated Public Right of Way (PROW) runs between the site and the rear of the houses on Redland Road. At the time of my visit the route was inaccessible. The use would not directly affect the line of the PROW, nevertheless,

should it become accessible in the future the proposal would be visible to users of the path. However, the existing and proposed landscaping and fencing would help to reduce the visual impact of the proposal and screen the use from the PROW.

27. The visual harm to the character and appearance of the area, even from the PROW and the train line, and including the significance of the setting of the conservation areas and the National Landscape would, therefore, be less than substantial. The public benefits of the development would be, amongst other matters, the provision of additional employment and the re-use of a brownfield site. It is not necessary for the appellant to identify a need for the storage use and in my judgement the benefits, albeit limited, would outweigh the less than substantial harm that would arise from the proposed use.
28. For the above reasons, the development would preserve the character and appearance of the area, including the Trinity and Malvern Link Conservation Areas and the Malvern Hills National Landscape. It would, therefore, comply with the requirements of Policies SWDP 6, SWDP 21, SWDP 23 and SWDP 25 of the SWDP which, taken together, seek to conserve and enhance heritage assets, including conservation areas, ensure that development is of a high design quality that integrates with its surroundings and the landscape setting, reflect the characteristics of the site and complement the character of the area, ensures that the scale, height and massing is appropriate to the setting of the site and the surrounding character and townscape, and seeks to resist development that would have a detrimental effect on the natural beauty of the National Landscape.
29. The Council has also referred to Policies MD1 and MD2 of the MTNP in their Statement of Case. Although neither of these policies were referred to in the decision notice, I have assessed the proposal against these policies and find that, for the same reasons as above, the proposed change of use would comply with Policies MD1 and MD2 which, taken together seek to ensure development integrates into the existing area and the landscape setting, and are of a scale and mass that reflect their surroundings and make effective use of land.

Other Matters

30. Interested parties have raised concerns relating to matters not considered above. The use of the site has the potential to affect the living conditions of the occupants of the neighbouring properties, with particular regard to noise, light pollution, and loss of privacy. The existing trees along the boundary with the residential properties have been cut back and, in some parts, there are gaps in the trees. The appeal site also lies on higher ground than the dwellings. Nevertheless, the trees would provide a buffer to limit any loss of privacy and any gaps in the trees could be replanted or enclosed with screen fencing, not just the mesh security fencing proposed. Such additional planting and fencing could be secured by a condition.
31. Noise and light from the proposed use would be restricted to the opening hours which would be confirmed through an Operational Management condition. Although the application form notes 07:00-19:00 every weekday the appellant has accepted the Council's suggested condition of 07:00-19:00 Monday to Friday, 08:00-13:00 on Saturday and no opening on Sundays and Bank Holidays. The hours would not be unreasonably early or late and would ensure Saturday afternoons, Sundays and Bank Holidays are quiet.

32. Although there would be noise during the daytime this would not be dissimilar to the noise currently experienced from the railway line, road, and other commercial uses near the site. Subject to appropriate conditions requiring additional planting and fencing, the Operational Management Plan, and the details of the lighting scheme, the use would not result in unacceptable adverse effects on the living conditions of the occupiers of the residential properties on Redland Road.
33. The cutting back of the trees has already been carried out and although this may have affected wildlife the submitted Preliminary Ecological Assessment concluded that there was no clear evidence of protected species using the application site or the existing building. I have no compelling evidence to find otherwise. Moreover, the appellant is proposing to retain the trees and provide new planting. This would, along with the restrictions on the use of lighting across the site, ensure that the proposed use has a limited effect on wildlife.
34. The access to the appeal site is as existing and evidence has been provided that the appellant has a right to use this. A condition can be imposed to require the submission of details of Operational Management which would include details of how the site would be managed, both in terms of container deliveries and also limiting off-site parking. On-site parking would be provided, and details have been submitted to show manoeuvring space. Even though the interested parties have raised concerns I have no compelling evidence that the proposed use, including the predicted vehicle movements, would not be capable of being accommodated safely on the local highway, including at the access junction to the site.
35. The appellant has advised that the storage of hazardous substances would not be permitted which would limit the risk of fire and the proposal includes CCTV which would assist in the monitoring of such issues. I also have no compelling evidence that the site cannot be provided with appropriate surface water drainage to ensure that there would not be an increased risk of surface water run-off to the lower lying properties on Redland Road.

Conditions

36. The Council has provided a list of conditions that it suggests would be appropriate and the appellant has commented on this. I have considered these in light of the Framework and the Planning Practice Guidance. In addition to the standard condition which limits the lifespan of the planning permission I have specified the approved plans for the avoidance of doubt and in the interests of proper planning.
37. In the interests of the character and appearance of the area, including the conservation areas and National Landscape, and to ensure that the proposed use has a consistent colour and appearance I have imposed a condition to require the containers to be finished in a dark green colour, to be agreed by the Council.
38. An Operational Management Plan (OMP) is required to provide further information and clarity on the opening hours and management of the proposed use in the interests of highway safety and the living conditions of the occupiers of neighbouring properties. However, as the OMP would include the opening hours, which would need to be agreed by the Council, I have not found it necessary to impose a separate condition setting these out.
39. The details of the hard and soft landscaping of the site are also required to ensure that any gaps in the fence and hedge line are closed so as to minimise the effect

of the proposed use on the occupants of the properties on Redland Road and to ensure that the landscaping is managed and maintained for the lifetime of the development. A condition to require the details of the lighting scheme to be submitted is necessary and appropriate to ensure that the lighting would not adversely affect the living conditions of the neighbours or the natural beauty of the Malvern Hills National Landscape. Furthermore, a condition to require any forklift trucks to be fitted with white noise/broadband reversing beepers only, would ensure that the use of such vehicles would not adversely affect living conditions.

40. It is also reasonable and necessary to ensure that car parking and secure cycle storage is provided on site, to ensure that parking and manoeuvring space is appropriate for the use and to give site users a genuine alternative sustainable method of transport. However, I have not imposed the requested condition requiring the access details to be submitted as no works are proposed to the vehicular access to the site.
41. Given the previous use of the site there is also a risk of contamination. For these reasons, a condition to ensure that any contamination found during the works is reported and assessed before work continues, is required. Conditions are also necessary to limit the use of the site for storage only, for the avoidance of doubt and in the interests of proper planning.

Conclusion

42. For the reasons given above, and taking into account all matters raised, I conclude that the appeal should be allowed, subject to the conditions listed.

K Townsend

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing nos: DNS 100, DNS 3.1B, DNS 5.B, DNS 17.1, DNS 18, DNS 19, 23095-TK03, DNS 8.0 and DNS 10.1.
- 3) The containers to be sited in association with the storage use of the site shall be finished in a matt dark green colour which shall first have been agreed in writing by the Local Planning Authority prior to their installation on site. The development hereby approved shall not be brought into use until the containers have been finished in accordance with the approved details and they shall thereafter be maintained as such for the lifetime of the use.
- 4) The Development hereby approved shall not be brought into use until details of an Operational Management Plan (OMP) have been submitted to and approved in writing by the Local Planning Authority (in consultation with the Local Highway Authority). The OMP shall include:
 - i) Details of the daily opening and closing times;
 - ii) Details of the management of container delivery and removal including the strategy to ensure container delivery vehicles are not required to pass another vehicle underneath the rail bridge arch;
 - iii) Details of the measures and mechanisms for ensuring the maximum vehicle size accessing the site is restricted to 7.5t (except for container delivery/removal);
 - iv) Details of any proposed measures/mechanisms for allocating or managing motor-vehicle parking spaces;
 - v) Details of reasonable endeavours to be made by the operators to prevent car parking on the access road from Howsell Road to the rail bridge, including the parking of vehicles for sale; and
 - vi) OMP update and revision process.Thereafter the use shall be operated in accordance with the approved OMP.
- 5) Prior to the first use of the site for storage details of hard and soft landscape works shall have been submitted to and approved in writing by the local planning authority. These shall include:
 - details of all existing trees and hedgerows on the land, showing the accurate position, canopy spread and species, together with an indication of any proposals for felling/pruning and any proposed changes in ground level, or other works to be carried out, within the canopy spread;
 - details of earthworks showing existing and proposed finished levels;
 - details of proposed fencing, to include screen fencing where there are any gaps in the tree lined boundary with Redland Road;
 - details of proposed planting, including a schedule of proposed planting - indicating species, sizes at time of planting and numbers/densities;

- a schedule of maintenance, including watering and the control of competitive weed growth, for a minimum period of five years from first planting.

The landscaping works shall be carried out in accordance with the approved details in the first planting and seeding/turfing seasons following the completion or first use of the development, whichever is the sooner. The completed scheme shall be managed and maintained in accordance with the approved schedule of maintenance. Any trees or plants which, within a period of five years from the completion of the planting, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

- 6) The development hereby permitted shall not be brought into use until the vehicle parking spaces have been provided in accordance with drawing no DNS 18 Access Road/Bridge Details. Thereafter those spaces shall be retained for the parking of vehicles only.
- 7) The development hereby approved shall not be brought into use until details of a sheltered and secure space for the provision of six bicycles has been submitted to and approved in writing by the Local Planning Authority. The cycle storage shall be provided before the site is first brought into use and that space shall thereafter be kept available for the storage of bicycles.
- 8) Notwithstanding the submitted details, details of floodlighting shall be submitted to and approved in writing by the local planning authority before the use hereby permitted commences. The development shall be carried out in accordance with the approved details.

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting that Order with or without modification) there shall be no other external lighting provided on the application site.

- 9) Any contamination that is found during the course of construction of the development hereby permitted that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended until a risk assessment has been carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found, the development shall not resume or continue until remediation and verification schemes have been carried out in accordance with details that shall first have been submitted to and approved in writing by the local planning authority.
- 10) Any forklift trucks associated with any B8 use shall utilise white noise/broadband reversing beepers.
- 11) The premises shall be used for storage and for no other purpose (including any other purpose in Class B8 or Class E of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).

*** END OF CONDITIONS ***