
Appeal Decision

Site visit made on 20 March 2025

by **C Butcher BSc MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 1 April 2025

Appeal Ref: APP/J1860/W/24/3357713

51 Howsell Road, Malvern, Worcestershire 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 Hillrow Homes against the decision of Malvern Hills District Council.
 - The application Ref is M/24/00925/FUL.
 - The development proposed is the conversion of existing vacant building, formerly a meeting hall, to form 2 no. two-bed flats.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed development on the living conditions of the occupiers of the proposed ground floor flat, with particular regard to outlook, privacy, noise and odour.

Reasons

3. The proposed development would involve the conversion of a vacant building to form two flats. The western elevation of the building is immediately adjacent to a small area of land that is used as a parking area and bin store by the occupiers of No. 53 Howsell Road and No. 89 Frederick Road. The two bedrooms within the proposed ground floor flat would both have windows facing this area of land.
4. It was particularly noticeable on my site visit that several bins are currently stored against the wall where one of the bedrooms would be located. Indeed, the bins would effectively be right outside the bedroom window. Odours from bins are quite common, even when the lid is shut. This is particularly the case in the warmer months when the occupiers of the ground floor flat are most likely to want to open their windows.
5. It seems inevitable to me that the location of the bins would lead to significant harm in the sense that the occupiers of the flat would either be subject to unpleasant odours from very close range, or feel unable to open the bedroom window at all. In either scenario, the proposed development would be unacceptable. Furthermore, given that the bin storage area is outside of the ownership of the appellant, the location of the bins cannot be controlled via condition.
6. Fumes and noise from cars are much more transient and the relationship between the ground floor flat and the parking area is not unusual in urban areas. I therefore

do not find harm in this regard. In addition, I can see no reason to conclude that the outlook from the ground floor windows would be unacceptable. Privacy could be achieved through the use of net curtains or blinds.

7. Nevertheless, due to the harmful impact of odours emanating from the bins, I conclude that the proposed development would conflict with Policies SWDP21 and SWDP31 of the South Worcestershire Development Plan, February 2016 as well as Policy MH2 of the Malvern Town Neighbourhood Plan 2015 - 2030. Taken together, the relevant aspects of these policies seek to protect living conditions.

Conclusion

8. It is not in dispute that the Council cannot currently demonstrate a 5-year supply of deliverable sites for housing. Indeed, the current shortfall is significant at only 2.06 years, and I have no evidence before me to suggest that this position is likely to improve in the short-term. As a result of the shortfall, policies related to the location and supply of housing are deemed to be out of date. In such circumstances, Paragraph 11d and footnote 8 of the National Planning Policy Framework (the Framework) require that 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 as a whole.
9. In this instance, the benefits of the proposal include the provision of two new homes that would assist in meeting need in the area, support for local facilities, and the creation of jobs during the construction phase. Despite the level of shortfall in housing land supply, which leads me to attribute increased weight to the benefits, I still only afford limited weight to them overall given that they are relatively minor in nature.
10. I have concluded that there would be material harm to the living conditions of the future occupiers of the proposed development. The support for the principle of development within the Framework is countered by the importance it places on the provision of development that preserves living conditions. In this instance, the harm would be significant and enduring. As a result, when assessed against the policies in the Framework taken as a whole, the adverse impacts would significantly and demonstrably outweigh the benefits. Consequently, for the reasons given, the proposed development conflicts with the development plan as a whole, and there are no other considerations, including the provisions of the Framework, that outweigh the identified harm. The appeal is therefore dismissed.

C Butcher

INSPECTOR