



Appeal Decision

Site visit made on 11 May 2025

by **P D Sedgwick BSc (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 03 June 2025

Appeal Ref: APP/H1840/W/25/3360289

Lower Leys House, Lower Leys, Evesham, Worcestershire, WR11 3AE

- 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 Allworks Properties Limited against the decision of Wychavon District Council.
 - The application Ref is W/24/00749/FUL.
 - The development proposed is a first floor extension over existing single storey building to create 7no. flats.
-

Decision

1. The appeal is allowed and planning permission is granted for a first floor extension over existing single storey building to create 7no. flats at Lower Leys House, Lower Leys, Evesham, Worcestershire, WR11 3AE in accordance with the terms of the application, Ref W/24/00749/FUL, subject to the conditions in the attached schedule.

Preliminary Matters

2. Subsequent to the refusal of permission for the proposed development the Government published its revised National Planning Policy Framework (the Framework) in December 2024. Further minor amendments were published on 7 February 2025, containing corrections and a clarification. The wording of the relevant paragraphs of the new Framework are similar to that of the 2023 version. Therefore, I am satisfied that they do not affect the substantive matters of the appeal and that considering the development against the revised Framework without seeking further comments from the parties on it would not be prejudicial to their respective cases.

Main Issues

3. The main issues are the effect of the proposed development upon:
 - the character and appearance of the host building and surrounding area; and,
 - the living conditions of occupiers of houses nearby, with particular regard to outlook, privacy, noise and pollution.

Reasons

Character and appearance

4. The appeal site relates to Lower Lees House, a former office block converted into flats on the corner of Lower Lees and Burford Road close to Evesham Town Centre. Lower Lees is on a slight hill dropping away to where it bends around to meet Castle Street which runs parallel with the River Avon. Lower Lees and Castle Street contain a mix of uses including a commercial garage, caravan park, residential flats, and small terraces of 2 storey houses opposite the site on Lower Lees and across Lees Walk which runs along the western edge of the site. A car park with rear service access for retail and commercial units on Port Street lies behind Lower Lees and is accessed either side of the terrace opposite the appeal site.
5. The character of the area is therefore mixed and includes buildings of varying heights, mass and designs visible from, or close to, the appeal site. These include a four storey cinema on the corner of Burford Road and Port Street, the modern 2 storey De Montford Medical Centre on Burford Road next to the long stay car park at the rear of the appeal site, and 3 storey flats on Castle Street.
6. The existing building on the appeal site comprises a 2 storey block on the corner of Burford Road and Lower Lees and an attached single storey block that extends along Lower Lees up to Lees Walk, set back from the pavement edge behind a paved parking area. There is a car park at the rear, and mature trees and hedges along the boundary edge adjacent to Lees Walk.
7. The proposed development would add another floor to the single storey element to provide an additional 7 flats. Whilst the ridge height would exceed that of the houses opposite and on Castle Terrace, due to its set back position and in the context of other flatted development nearby, it would not appear unduly dominant or out of place, nor would it appear disproportionate to the existing building as the roof eaves and ridge would be slightly lower than those of the 2 storey element that it would adjoin. The length of the building would ensure that the building maintains the horizontal rhythm that the council indicate as important to the wider street scene. Peaked gables also would be reintroduced into the roofline, reflecting similar design elements incorporated into the Terrace on Burford Road and highlighted by the council in its statement of case.
8. Lower Lees borders Evesham Conservation Area (CA) and the council are concerned that the proposed development would harm its setting, referring to the layout of the terraced houses opposite the site retaining the pattern of historic burgage plots. However, the terrace is isolated from the historic core of the CA by the parking and service yard to its rear and the burgage plots are not readily apparent and would remain unaffected by the proposed development. Furthermore, the special interest of this part of the CA mainly lies in the design of the frontage of buildings along Port Street from where the appeal site is not visible. The rear of the buildings on Port Street which are intervisible with Lower Lees House, in the gaps provided by the car park access, contribute little of interest to the character of the CA. Overall I consider the proposed development would cause no harm to the CA or its setting and would accord with Policy SWDP21 of the South Worcestershire Development Plan (2016) (SWDP) which requires development to be appropriate to the setting of the site and surrounding townscape.

Living conditions

9. Houses opposite the appeal site are set back from the pavement behind front gardens and Lower Lees house is also set back from the pavement edge behind a tarmac parking area with distances between the windows of facing properties exceeding 20m. This would be sufficient to ensure mutual privacy between occupiers of the terrace and the proposed flats and prevent the building appearing oppressive and overbearing. I also note that the distance between the flats and houses on the opposite side of the road is significantly greater than for properties further up the hill on The Lees, where residential properties of varying heights face each other and abut the pavement edge.
10. Also, proposed new windows on the east elevation of the extension would face the side wall of 4 Castle Terrace, which only has ground floor windows, none of which serve habitable rooms, and are screened from the appeal site by mature trees and hedges.
11. I do not consider that the addition of 7 flats would appreciably increase noise levels or pollution, particularly given the proximity to existing car parks and commercial units, and I note that the council's Pollution Team had no adverse comments. Overall, I conclude on this main issue that the proposed development would not cause unacceptable harm to the living conditions of neighbouring occupants and there would be no conflict with Policy SWDP21 of the SWDP, with regard to its requirement to protect neighbouring amenity.

Other Matters

12. Local residents raised concerns regarding parking and highway safety, domestic waste, daylight and privacy for occupants of Burford Road. There would be sufficient parking to serve the development with the reallocation of visitor parking spaces on site and additional parking at the long stay car park to the rear for visitors. I also note that the highway authority did not object to the scheme. Bin storage would be provided. The distance between windows on the proposed extension and the rear gardens on Burford Road would be sufficient to prevent any significant loss of privacy and the increased height of the building would not reduce daylight to the houses opposite to a degree that would cause unacceptable harm to the living conditions of occupants.
13. The council cannot currently demonstrate a five-year supply of deliverable housing sites as required by the Framework. Consequently, paragraph 11(d) of the Framework is engaged, and the relevant local policies are considered out-of-date. Paragraph 11(d) requires that planning 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. This is consistent with Policy SWDP1 of the South Worcestershire Development Plan (2016) (SWDP). I find that the proposal would not result in any adverse impacts and there would be no conflict with the policies in the SWDP. The proposed development would be close to the Town Centre in a sustainable location with access to shops and services and public transport. It would make effective use of land and provide benefits in terms of increasing the housing supply and providing jobs during construction and support local services which weigh substantially in favour of the proposal.

Conclusion and conditions

14. I have considered the conditions suggested by the council and the appellant's response to them. I have attached the standard time limit condition and a plans condition as these provide certainty, updating a drawing number for accuracy. A condition concerning materials is necessary to ensure a satisfactory appearance. A condition limiting the times for deliveries and activities on site is necessary in the interests of protecting residential amenity. A condition regarding the implementation of the energy plan is necessary to meet the environmental objectives of the Framework. A condition regarding external lighting is necessary to protect amenity and biodiversity. Conditions requiring a surface water drainage strategy and construction management plan are not necessary as the council's drainage engineer and Environment Agency confirmed that existing on site surface water and flood management is acceptable and the proposal does not include site clearance. A condition requiring full details of the provision of foul drainage is not necessary as the application form indicated mains disposal, and consultees raised no objection. A condition requiring details of cycle parking is necessary to ensure secure parking and promote alternative forms of transport. A pre-commencement condition requiring the approval of a Construction Environmental Management Plan has been agreed by the appellant and is necessary to ensure highway safety during construction.
15. The proposal would accord with the relevant policies in the Development Plan, contribute to meeting a significant shortfall in housing and would be sustainable development for which the Framework indicates a presumption in favour. Therefore, for the reasons given above the appeal should be allowed.

P D Sedgwick

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2) The development hereby approved shall be carried out in accordance with the information provided on the application form and the following approved plans: Site Location Plan 04; Proposed Block Plan 04a Rev B; Proposed Floor Plan and Roof Plan 2023-40-03 Rev D; Proposed Elevations 2023-40-04; Energy Statement.
- 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
- 4) Clearance or construction work and deliveries to and from the site in connection with the development hereby approved shall only take place between the hours of 08.00 and 18.00 hrs Monday to Friday and 08.00 and 13.00 hrs on a Saturday. There shall be no demolition, clearance or construction work or deliveries to and from the site on Sundays, Public or Bank Holidays.
- 5) Prior to the first occupation of the development the renewable energy sources and insulation measures shall be provided in all respects in accordance with the Energy Statement (April 2024, ref. 23/443/Rivers). The approved scheme shall be implemented and thereafter retained in operation.

- 6) Prior to the installation of external lighting full details including height, design, location and intensity shall be submitted to and approved in writing by the local planning authority. The lighting installation shall then be carried out in accordance with the approved details.
- 7) The dwellings shall not be occupied until sheltered and secure cycle parking to comply with the council's adopted cycle parking standards has been provided in accordance with details which shall first be submitted to and approved in writing by the Local Planning Authority and thereafter the approved cycle parking shall be kept available for the parking of bicycles only.
- 8) The development hereby approved shall not commence until a Construction Environmental Management Plan has been submitted to and approved in writing by the Local Planning Authority. This shall include but not be limited to the following:
 - Measures to ensure that vehicles leaving the site do not deposit mud or other detritus on the public highway.
 - Details of site operative parking areas, material storage areas and the location of site operatives' facilities (offices, toilets etc).
 - The hours that delivery vehicles will be permitted to arrive and depart, and arrangements for unloading and manoeuvring.
 - Details of any temporary construction accesses and their reinstatement.
 - A highway condition survey, timescale for re-inspections, and details of any reinstatement.

The measures set out in the approved plan shall be carried out and complied with in full during the construction of the development hereby approved. Site operatives' parking, material storage and the positioning of operatives' facilities shall only take place on the site in locations approved by in writing by the local planning authority.

*****End of conditions*****