



Appeal Decision

Site visit made on 15 April 2025

by A J Sutton BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 June 2025

Appeal Ref: APP/R1845/W/24/3356422

Oakhouse, St. John's Lane, Bewdley DY12 2QZ

- 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 J Davies against the decision of Wyre Forest District Council.
 - The application Ref is 24/0612/FUL.
 - The development is described as 'Proposed Replacement self-build dwelling.'
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the development on designated nature conservation sites and protected species in the area.

Reasons

3. The appeal property comprises a detached dwelling in a large plot. The property is accessed via a predominately single track gravel lane. The dwelling is in a short row of properties also in sizeable plots. These residential properties are generally surrounded by small paddocks and extensive woodlands.
4. The dwelling at Oakhouse appears to be extended, but the built form is mostly limited to the northeast quadrant of the plot. The remaining plot is largely laid to lawn. Other green features in the garden include a few trees and the boundary hedge which appears a mix of evergreens. With the exception of a garage and small summer house there are few other buildings in the garden.
5. Immediately to the rear of the garden are paddocks that are bounded by deciduous woodland. The lane providing access to the appeal property is also edged with woodland on one side.
6. The woodland in this area is part of the wider Wyre Forest. Valued for recreation, the Forest is one of the largest ancient woodlands in England. Its expanse comprises a mosaic of woodland, grassland meadows, old orchards and areas of scrub. I saw that many of these contributing qualities of the Forest are evident near the appeal property.
7. In terms of the Forest's contribution to biodiversity, the list of priority habitats in England include broad leaf, mixed woodland and low land mixed deciduous woodland such as that evident in this locale. Natural England's (NE) Standing Advice indicates the legally protected species likely to be found in the type of habitats close to the front and rear of the appeal property include bats, wild birds,

hazel dormice and invertebrates, badgers, reptiles and protected plants, fungi and lichens.

8. Specific to the appeal property, the connecting woodland coppices which arc around the residential properties on St John's Lane (including Oakhouse) and some of the grassland at the rear of these properties are part of a large Site of Special Scientific Interest (SSSI) which is cited for its biological interest and high value biodiversity. The habitats of the SSSI are stated as being, amongst other things, floristically rich and with an exceptionally rich invertebrate assemblage. The habitats also supports uncommon plant species. Also, the woodland to the front of the appeal property is designated as a local wildlife site (LWS). That locally significant site connects directly with the SSSI not far from the access of Oakhouse.
9. The proposal seeks to replace the existing house at the property with a new dwelling roughly in the same location as its predecessor. This would involve the demolition of a significant built form and construction of a large structure. While the appeal property may have been in residential use for many decades and is not attached to the SSSI and LWR, as already established it is very close to these sensitive designated sites that are likely to support protected species.
10. Also, the property has a large garden that is relatively undeveloped such that this green space may well function as a corridor connecting habitats that surround it. The significant site changes and construction activities under this scheme could have negative consequences for the qualifying features of this biologically important and diverse setting.
11. The Conservation of Habitats and Species Regulations 2017 as amended (Regulations) requires a competent authority to have regard to the requirements of the associated Directive so far as it may be affected by the exercise of its functions. This includes any proposal that might lead to the deterioration or destruction of the breeding sites and resting places of European protected bat species. Other species and nature conservation sites may have protection under these Regulations or the Wildlife and Countryside Act 1981. Also, relevant to this proposal, the National Planning Policy Framework (the Framework) states that development within or outside SSSIs which is likely to have an adverse effect on it should not normally be permitted. (My emphasis)
12. NE's Standard Advice provides guidance when there are protected species on or near a proposed development. Where there are likely to be adverse effects on protected flora and fauna, proposals should not usually be decided until surveys are submitted. It is therefore necessary for evidence regarding potential impacts on habitats and species to be provided at the application stage.
13. In considering potential effects, addressing legal duties, national guidance seeks to avoid harm to habitats and species. Where this is not possible, mitigation should be identified, and as a last resort, compensation should be sought where adverse impacts cannot be mitigated.
14. As the appellant highlights, surveys are required to establish whether protected species are likely to be harmed, and this is consistent with NE's Standing Advice on this matter. Such surveys should be carried out by qualified persons at the right time of the year employing appropriate methods.

15. The original application was supported by an Ecological Survey. This includes a daytime inspection of the building for bat activity, followed by an emergence survey. The author of the Ecological Survey has listed qualifications and experience directly relevant to this particular type of survey work.
16. The Council is concerned that the bat surveys were completed at a suboptimal time, outside summer months. However, carried out in early to mid-September this work was conducted close to that optimal period. Moreover, the temperate and calm weather conditions recorded for the emergence survey were within the parameters advised for successful surveys. In light of these factors, I see no compelling reason to challenge the quality of this survey work and its findings.
17. The Ecology Survey also includes a preliminary desktop survey of species recorded in a 5km radius of the appeal property. The records show a range of species, including reptiles, particularly focused in the Wyre Forest to the north of the property. The Survey highlights a National Nature Reserve but makes no reference to either the citation of the SSSI, its qualifying features or the LWS that are in close proximity of the appeal property.
18. A general walkover of the surrounding area was conducted looking for signs of any protected flora or fauna and concluded that 'nothing was found'. However, the extent of this walkover is unclear, and I am unable to establish whether this took account of the diverse habitats and biological interest of the SSSI close to the property or indeed locally significant habitats that fringe its access road.
19. Consequently, it has not been possible to establish the potential effect of the proposal on the qualifying features of the designated sites and whether the development would have an adverse impact on this nature conservation interest or otherwise. Moreover, while the author of the report may have qualifications relevant to the consideration of bats, the evidence advanced does not suggest that the experience stated extends to plant surveys or the surveying for reptiles and invertebrates.
20. NE's Standing Advice indicates that a lower than standard survey effort could be accepted subject to establishing proportionality, predicting ecological impacts with sufficient certainty and offering mitigation or compensation were necessary. This advice is specific to licensing matters which is separate to the planning system. Nonetheless it is reasonable to apply a proportionate approach at the planning application stage and this is reflected in Policy SP.23 of the Wyre Forest District Local Plan (Local Plan) and in the supporting text of that Policy.
21. However, while the proposal may be defined as minor development, it would result in significant works at the site, as already outlined. Moreover, these works would take place in an ecologically sensitive location capable of supporting European protected species and that has national and local significance for nature conservation. I am not persuaded that the evidence advanced provides sufficient certainty that adverse ecological impacts would not occur as a consequence of this development.
22. The appeal property already benefits from a planning permission for a large, two storey extension. A lawful development certificate has also been issued which confirms that the dwelling could be extended to the rear and side, in addition to the works allowed by the extant planning permission. As a permission and certificate

exist, there is a greater than theoretical possibility that the development might take place, and this attracts great weight.

23. The proposal subject of this appeal would require the demolition of an existing sizeable dwelling and clearance of the significant materials that would result from that process. This would be followed by the construction of a new large dwelling.
24. Even with just one dwelling, this operation would generate several vehicle movements along the relatively narrow access road, and these are likely to be HGVs either removing rubble and other waste or bringing construction materials to site. Moreover, the process of demolition and construction would probably involve other heavy plant which would also need to use the same narrow access road at the fringe of a LWR that connects to the SSSI.
25. A significant number of large vehicle movements accessing the appeal property on this lane and potentially turning immediately near the edge of the SSSI, would be a distinctly different pattern of use on the access road than would normally be expected day to day from the existing residential use in this area. Moreover, the resultant demolition and rebuilding process would be considerably more involved in this regard than if the existing dwelling was to be extended.
26. Even though this disruption may only be temporary the submitted evidence does not provide the necessary confidence that this different pattern of use would not significantly impact the protected flora and fauna that may exist close to the appeal property. It seems to me that this is just one potential consequence of this scheme that could have an adverse effect on this sensitive environment and biodiversity in the area. Such matters do not appear to have been considered.
27. It is suggested that details regarding construction can be conditioned. However national guidance clarifies that planning conditions should not require surveys as the full impact of the development proposal on protected species should be considered before planning permission is granted. Condition for additional surveys should only be attached in exceptional circumstances, for instance, to support detailed mitigation proposals or if there will be a delay between granting planning permission and the start of development, as would be so for outline development. These circumstances do not apply in this case.
28. In light of the above, insufficient information has been submitted to provide certainty that the proposal would not have an unacceptable harmful effect on the designated nature conservation sites and protected species in the area. In this regard the proposal would fail to accord with Policies SP.20, SP.23 and DM.24 of the Local Plan. These Policies collectively seek high quality design, and amongst other matters require that full consideration will be given to the importance of any affected habitats and features, taking account of the hierarchy of protected sites, including development likely to have an adverse effect on a Site of Special Scientific Interest and irreplaceable features such as ancient woodland.

Other Matters

29. The Council has not identified any harm in respect of character and appearance. While this may work in favour of the proposal, design quality is not limited to the consideration of these matters. It is not certain that this proposal would appropriately safeguard the biologically diverse local environment for the reasons outlined. The proposal is not a high quality design in this regard.

30. The development is described as a self-build project and evidence states this replacement dwelling is for the appellant who lives at the existing property. It is asserted therefore that a legal agreement on this matter is unnecessary. However, the Self-build and Custom Housebuilding Act 2015 (as amended) defines a building or completion by individuals, of houses to be occupied as homes by those individuals.
31. While the appellant may have had direct primary input into the design of the property to date, circumstances change, and this can include the transfer of the interest in the property. If this was to occur, successive owners may not be able or obliged to deliver this development as a self-build dwelling as defined by the Act. Without certainty that a self-build unit would be secured in this case, this matter cannot weigh in favour of the proposal. Moreover, if there is no certainty of this outcome, the proposal may not be exempt from the mandatory requirement for biodiversity net gain. Also, as a replacement dwelling the development would not contribute to the Government's objective of significantly boosting the supply of homes.
32. The development would create a larger family home than already exists on the site. But there is already permission to extend the dwelling on the site, so this matter attracts very little positive weight. This would replace an existing dwelling that is asserted to have poor foundations and suffers from damp problems. While this would be a positive outcome, I am not convinced that this potentially harmful development is the only means of resolving these issues at the property, and this counters this benefit. Accordingly, this matter does not weigh considerably in favour of the proposal.
33. Low carbon and energy efficiency measures could be incorporated into the new dwelling. Also, a landscaping scheme and some on-site ecology enhancements are suggested, such as bat and bird boxes and control of lighting. These matters could be secured by condition, but these benefits would not address the concerns raised in respect of the potential adverse impacts the development could have on the wider sensitive environment and designated nature conservation sites in the area.
34. The Council identifies conflict with Policy DM26 of the Local Plan. However, this Policy addresses landscaping and boundary treatments, matters not in contention in this case. This Policy has not been determinative in this decision for this reason. Attention is drawn to local policies not in dispute. However, I find harm to protected sites, habitats and species cannot be ruled out in this case and conflict with Local Policy in respect of this matter and with the development plan when read as a whole.

Conclusion

35. Having regard to the development plan and other material considerations, including the Framework, the appeal should be dismissed.

A J Sutton

INSPECTOR