
Appeal Decision

Site visit made on 12 September 2016

by G D Grindey MSc MRTPI Tech Cert Arb

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 21 September 2016

Appeal Ref: APP/H1840/W/16/3152337

Land adjacent to Clover Patch, 7 Pridzor Road, Droitwich Spa, WR9 8LQ.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr John Garbett against the decision of Wychavon District Council.
 - The application Ref W/16/00256/PN, dated 29 January 2016, was refused by notice dated 2 June 2016.
 - The development proposed is demolition of 3 buildings, erection of 3 houses and diversion of public footpath DW-533.
-

Decision

1. The appeal is allowed and planning permission is granted for the demolition of 3 buildings, erection of 3 houses and diversion of public footpath DW-533 at land adjacent to Clover Patch, 7 Pridzor Road, Droitwich Spa, WR9 8LQ, in accordance with the terms of the application, Ref W/16/00256/PN, dated 29 January 2016 and the plans submitted with it, subject to the conditions listed in the Schedule at the end of this document.

Background matters

2. Reason no 4 on the Council's reason for refusal concerns the requirement for an off-site financial contribution towards affordable housing. National planning policy on this has changed over the past months and the Council stated, in their letter of 27 July 2016, that they have recently taken the view that "a contribution towards affordable housing is not justified nor required in this case." This matter need not concern me further.

Main Issues

3. I consider that the main issues are: (i) whether the appeal site is a suitable one for housing, bearing in mind relevant planning policy; (ii) whether the site represents an employment-generating site that should be safeguarded; and (iii) whether the proposal constitutes inappropriate development in the Green Belt.

Reasons

Issue (i) whether the appeal site is a suitable one for housing, bearing in mind relevant planning policy

4. The settlement boundary defined in the up-to-date South Worcestershire Development Plan (2016) lies at the end of Pridzor Road, and the red line

around the application site abuts it, as it includes the single track access route into the site. Policy SWDP2 defines open countryside as land beyond any settlement boundary, where development will be strictly controlled with certain specified exceptions. Thus the appeal site is adjacent, but outside, the defined settlement.

5. The written justification to policy SWDP2 emphasises the high quality of the open countryside in the area and I am aware of the historic and locally important Impney Park, setting for the Grade II* listed Chateau Impney Hotel to the north-east of the site, which I saw while I was in the locality. However bearing in mind the congested vehicle parking on the appeal site and the poor quality of the buildings, I find the site, in its existing use, detracts from the character and appearance of the area and that re-development would result in an improvement. This was the conclusion of the comment from the Heritage Section of the Council¹ which adds weight to my view.
6. Policy SWDP2 must be read as a whole and part A sets out the overarching principles that, among other matters, the strategy will encourage the effective re-use of accessible, available and environmentally acceptable brown-field land, maintain the openness of the green belt (see my paragraphs 16 to 21 below) and focus most development on the urban areas. I found the site to be a part of the urban area, accessed through residential development on the north-east edge of Droitwich Spa and, in character and appearance, not a part of the open countryside. I further note that, initially, the Council regarded the site as "in a sustainable location"². I agree. Read as a whole I find no conflict with the terms of policy SWDP2.

Issue (ii) whether the site represents an employment-generating site that should be safeguarded

7. The Council argues that the site is, at present, an existing employment site within the terms of the South Worcestershire Development Plan, policy SWDP12. This seeks to ensure that sites in rural areas used for storage (among other uses) should be safeguarded for employment generating uses. The policy continues that, for sites where a change of use is sought, as here, applicants will need to demonstrate that the site has been actively marketed for employment, tourism, leisure or recreation purposes for at least 12 months to demonstrate that it is no longer viable for an employment generating use. The appellant has not carried out this exercise.
8. However, the reasoned justification to the policy indicates that there is a degree of sensible flexibility in the application of the policy and that the "timescales and range of the marketing exercise will need to have regard to the nature and scale of the site and buildings and the prevailing economic conditions". Reference in the policy is also made to "Annex F – Marketing Requirements" which makes it very clear that it will not be necessary to comply with these requirements always.
9. The Council states that the larger building and yard are in active B8 use and the stables provide a leisure/recreation use³; the appellant disputes this. I found that the small cold-store section within the main building was certainly

¹ Email of 12 February 2016 Appendix 7 of Appellant's statement

² E-mail of 23 March 2016, Appendix 8 of Appellant's statement

³ As seen when the applicant officer visited the site previously

not in operation, since the door was missing, and that the whole building was full of somewhat random items, none of which looked like the stock for a functioning business operation.

10. At the time of my inspection, the associated yard on the whole site was full of vans parked in tandem and triple deep parking. The appeal statement states that the yard is "frequently used for the parking and maintenance of vans and lorries associated with the cold storage"⁴. I note that the Council has issued a Certificate of Existing Lawful Use for "use of building 1 and associated yard area for the parking and maintenance of delivery vehicles and cold storage". These elements therefore agree. This use has no conditions attached and I am mindful could operate at any time, potentially causing significant nuisance to the nearby modern residential properties.
11. The stables did not have horses present although there were some in the field to the north; there was straw bedding in one of the loose-boxes. However the stable loose-boxes are limited in number and the open fronted store opposite had limited use. There was some dismantled kitchen units in the locked tack room. The rudimentary stable buildings and store appeared to me to be a simple private, not commercial, provision and thus unlikely to be employment-generating.
12. I found that the approach to the appeal site, with an awkward junction off Bromsgrove Road and a narrow, heavily parked route through a residential area along Woodfields and Pridzor Road and then unmade and of narrow width into the site to be wholly unsuitable for the promotion (or continuation) of an employment generating use. This route eastward from Pridzor Road is also shared with a pedestrians along a footpath route. Along Woodfields and Pridzor Road I saw a number of vehicles already parked half-on the pavements and existing parking almost all the way along the approach roads, narrowing the highway to a single carriageway difficult to negotiate, even in a small commercial vehicle like a van, let alone a larger vehicle. There are informal signs stating "no turning" and "no parking on pavements" suggesting a good deal of existing conflict and frustration by nearby residential occupants along this route.
13. Once on the site parking is limited and inconvenient and the vehicles I saw were parked nose-to-tail 3 deep. There is only a limited turning area on the west side of the site so it must be problematic on a daily basis for vehicles to enter and leave in forward gear, particularly if other vehicles have to be moved first to get a particular one out. This is the first element against the retention of employment use here.
14. Secondly, I found the physical state of the buildings to be poor. The eastern building is a simple concrete block building with a sheet roof on a lightweight structure, unsealed at the eaves. While it appeared broadly weather-tight it is not insulated, it is lightweight and, for example, the operation of noisy machinery within the building would doubtless not be contained by the structure. The two buildings to the west are also simple blockwork stable buildings of even more limited function. To my mind none of the buildings offer much in the way of modern or efficient facilities, nor do they have practical and convenient access or parking for commercial vehicles.

⁴ Appellant's statement, paragraph 3.2

15. Pulling these threads together, I find that these awkward and outdated buildings should not be safeguarded for in commercial use; policy SWDP12 permits of some flexibility and the proposals would not be against the objectives of the policy.

Issue (iii) whether the proposal constitutes inappropriate development in the Green Belt

16. The Council's policy SWDP2 refers, in turn to national policy in the National Planning Policy Framework (the Framework). This sets out national policy on green belts and is an important material consideration. The government attaches great importance to green belts. Paragraph 87 indicates that inappropriate development is, by definition, harmful to the green belt and should not be approved except in very special circumstances. In particular paragraph, paragraphs 89 and 90 of the Framework indicate limited exceptions. One of these is "limited infilling or the partial or complete redevelopment of previously developed sites (pdl), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development".
17. The appellant offers a calculation of the volume of the existing buildings and the use of half the existing yard area for vehicle parking – this is set out in the statements; I need not repeat it here. The Council initially stated "I am satisfied with your volume calculations and the conclusions of no greater impact on the openness of the greenbelt than the existing"⁵. However, by the time the report to committee was prepared, they disputed that the stables were pdl (but did not set out a reason) although there is a reference to the Glossary attached to the Framework. I do not know if they argue that these permanent buildings were previously an agricultural building and thus are not, therefore, pdl, but there seemed to me from what I saw on site, no particular connection with the pasture land within the applicant's ownership. Pdl is or was occupied by structures and includes any associated curtilage.
18. The Council also declined to count the permissible parking/maintenance of vehicles on the yard area. This runs counter to the approach taken with another case, ref. no. W/13/01130/OU at Hurst House, brought to my attention by the appellants in their appendix 9.
19. That site had a Certificate of Existing Lawful Use for maintenance and storage of vehicles and, in that case, the Council acknowledged that it was "reasonable to include a proportion of the volume of the outdoor vehicle storage in this assessment" and judged that 75% of the yard area should be included in the volume calculation. I see no reason why a similar methodology should not be used here. While I agree that parking can, in some circumstances, be temporary and transient, in the circumstances of this case it seems likely that vehicles could be parked here at all times and frequently are nose-to-tail and create an impression of developed land rather than openness.
20. As such, the appellants calculations indicate that the existing buildings and parking over 50% of the yard have a volume of 1673m³ while the volume of the proposed development of 3 dwellings would have a volume of 1574m⁶. The

⁵ Email from Mr Denton dated 23 March 2016

Council, at one point, agreed with these figures; I find no reason to disagree with them.

21. I next examine carefully the policy test of “not have a greater impact on the openness of the Green Belt”. On this previously developed site there are clearly defined boundaries and, within them, a congested either built or parked site. This is not an open site, in terms of an ‘absence of development’. I find that the proposed development would not result in a greater impact on the openness of the greenbelt, nor would it result in any encroachment onto the open pasture land which wraps round the site, generally to the north. As such there is no conflict with national or local green belt policy and the scheme would not be inappropriate development.

Other matters – the footpath

22. The scheme would require the diversion of a public right of way recorded on the Definitive Map, Droitwich footpath DW-533. Judging from the comments of the County Council on the earlier application and sent with the appeal documents, I am not sure that they realise that the definitive line of the footpath is, at present, blocked, both by security fencing around the appeal site and a conifer hedge to the east. Also, I understand, beyond the hedge the path is blocked by an extension at Woodfield Cottages. There was already a permissive route available at the time of my inspection along the track to the south, which is the route suggested in the application. While the Ramblers’ Association have other comments on the application, I note that they submit that, if permission were to be granted, the proposed diversion would be acceptable to their organisation. I find that the proposed diversion would be a better route, although clearly the diversion will have to be the subject of an entirely separate Order procedure, which is not a matter for me.
23. The Council has sent a listed of conditions which they consider should be attached to any permission which I may grant. I consider that all should be attached, for the reasons given.

Conclusions

24. I find that the appeal site is a suitable one for housing in the light of national and local planning policy. I also conclude that the site does not represent an employment-generating site that should be safeguarded and I find that the proposal would not be inappropriate development in the Green Belt.

Gyllian D Grindey

Inspector

Schedule of conditions attached to decision on appeal ref: APP/H1840/W/16/3152337

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason - In accordance with the requirements of Section 91 (1) of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. No development shall take place until details of the materials to be used in the construction of the external surfaces of the dwellings hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason - To ensure that the development is visually satisfactory. This is in accordance with policy SWDP21 of the South Worcestershire Development Plan.

3. The garages shown on the approved plans shall be kept available for storage use and shall not be converted into habitable accommodation.

Reason - In order to ensure that garage accommodation remain available for the residential use and so as to restrict pressure for additional or alternative garaging or new buildings.

4. Prior to the first use/occupation of the development hereby permitted, the details set out in the submitted Water Management Statement shall be fully implemented and remain thereafter.

Reason - To ensure that an appropriate sustainable drainage system is provided to serve the development and to reduce the consumption of water. This is in accordance with Policy SWDP29 of the South Worcestershire Development Plan.

5. The precise floorslab levels of each new dwelling, relative to the existing development on the boundary of the site shall be submitted to and approved by the local planning authority. Development shall be carried out in accordance with the approved details thereafter.

Reason - To ensure that the proposal does not have an adverse impact visually upon the surrounding environment or the amenities of adjacent residential properties. This is in accordance with policy SWDP21 of the South Worcestershire Development Plan.

6. Gas protection measures should be incorporated within the foundations of the proposed structures, approved prior to commencement of the development by the Local Planning Authority, or a risk assessment should be undertaken to establish whether the proposed development is likely to be affected by gas emissions from these areas, provided to and approved by the Local Planning Authority, prior to commencement of the development. Where significant risks are identified or insufficient data hinders an appropriate risk assessment, a targeted site investigation proposal or proposed remedial measures must be provided to and approved in writing by the Local Planning Authority, prior to commencement of the development.

Reason - To ensure that the risks to buildings and their occupants from potential landfill gas are adequately addressed.

7. No part of the development shall be commenced until full details of soft landscaping works have been submitted to and approved in writing by the Local Planning Authority.

The details submitted must include:

i) a plan(s) showing details of all existing trees and hedges on the application site. The plan should include, for each tree/hedge, 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.

- ii) a plan(s) showing the layout of proposed tree, hedge and shrub planting and grass areas.
 - iii) a schedule of proposed planting - indicating species, sizes at time of planting and numbers/densities of plants.
 - iv) a written specification outlining cultivation and other operations associated with plant and grass establishment.
 - v) a schedule of maintenance, including watering and the control of competitive weed growth, for a minimum period of five years from first planting.
- All planting and seeding/turfing shall be carried out in accordance with the approved details in the first planting and seeding/turfing seasons following the completion or first occupation/use of the development, whichever is the sooner. 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, unless otherwise agreed in writing by the Local Planning Authority.
- Reason - To ensure that the development is visually satisfactory. This is in accordance with policy SWDP21 of the South Worcestershire Development Plan.

8. The development hereby permitted shall be carried out in accordance with the precautionary measures recommended in section 6 of the Preliminary Bat Roost Assessment by Swift Ecology dated 6 July 2015. On completion a brief letter of confirmation shall be submitted to the local planning authority.

Reason - to ensure compliance with the Wildlife and Countryside Act 1981 (as amended) and the Conservation of Habitats and Species Regulations 2010.

9. Within one month of the commencement of construction works on the development hereby permitted, details of bat roosting features and bird nesting boxes for each of the dwellings shall be submitted to and approved in writing by the Local Planning Authority. The approved features shall be provided in accordance with the approved details prior to the first occupation/use of the development hereby approved.

Reason - to provide appropriate habitat enhancement for protected species in accordance with paragraph 118 of the NPPF.

10. Details of all fencing, walls, gateways and means of enclosure shall be submitted to and approved by the Local Planning Authority before the development hereby approved is completed and the work shall be carried out prior to occupation, in accordance with the details so approved, and subsequently maintained to the satisfaction of the Local Planning Authority.

Reason: To ensure a proper standard of separation from, and standard of amenity with respect to, neighbouring property.

11. No dwelling hereby approved shall be occupied until its driveway access has been set back 2.0 metres from the nearside edge of the adjoining private road. On each side of the set back entrance splays shall be formed at an angle of 45 degrees with the highway boundary and the whole of the splayed areas shall be graded and cleared so that no part thereof exceeds a height of 0.6m above the relative level of the adjoining road.

Reason: In the interests of highway safety.

12. The development hereby permitted shall not be brought into use until the access, turning area and parking facilities shown on the approved plan have been properly consolidated, surfaced, drained and otherwise constructed in accordance

with details to be submitted and approved in writing to the Local Planning Authority and these areas shall thereafter be retained and kept available for those users at all times.

Reason: In the interests of highway safety and to ensure the free flow of traffic using the adjoining highway.

13. Prior to the first occupation of any dwelling hereby approved secure parking for 4 cycles to comply with the Council's standards shall be provided within the curtilage of each dwelling and these facilities shall thereafter be retained for the parking of cycles only.

Reason: To comply with the Council's parking standards.

14. No development shall take place which obstructs the existing Public Right of Way crossing the application site until an Order has been made for it to be diverted or stopped-up.

Reason: To ensure the public right of way is not obstructed.

15. Prior to the occupation of any of the dwellings hereby permitted details of renewable or low carbon energy generating facilities to be incorporated as part of the permitted development shall be submitted to and approved in writing by the local planning authority. The details shall demonstrate that at least 10% of the predicted energy requirements of the development will be met through the use of renewable/low carbon energy generating facilities. The approved facilities shall be provided prior to any of the apartments hereby permitted being first occupied.

Reason: To ensure the proposed development includes sufficient renewable/low carbon energy generating facilities to comply with Policy 27 of the South Worcestershire Development Plan 2016.

16. The development hereby permitted shall be carried out in accordance with the following approved plans:

- Proposed 2 Bed Bungalow Plans and Elevations P15.931.02
- Proposed 3 Bed Bungalow Plan Plot 3 P15.931.03
- Typical Site Section P15.931.04
- Application site edged red with footpath diversion P15.931.05
- Proposed Site Plan P15.931.06

Reason - To define the permission.

Notes:

Mud on Highway

The attention of the applicant is drawn to the need to keep the highway free from any mud or other material emanating from the application site of any works pertaining thereto.

Public Rights of Way Affected

A public right of way crosses the site of this permission. The permission does not authorise the stopping up or diversion of the right of way. The right of way may be stopped up or diverted by Order under Section 257 of the Town and Country Planning Act, 1990, provided that the Order is made before the development is carried out. If the right of way is obstructed before the Order is made, the Order cannot proceed until the obstruction is removed.

Continued on page 9 of decision

Access Via Public Right of Way

Access to the site is via a public right of way and the applicant's attention is drawn to the restrictions imposed by Section 34 of The Road Traffic Act, 1988, regarding the driving of motor vehicles over public footpaths/bridleways.

Private Apparatus within the Highway

This permission does not authorise the laying of private apparatus within the confines of the public highway. The applicant should apply to the Worcestershire County Council's Network Control Manager, County Hall, Spetchley Road, Worcester WR5 2NP (telephone 0845 607 2005), for consent under the New Roads and Streetworks Act 1991 to install private apparatus within the confines of the public highway. Precise details of all works within the public highway must be agreed on site with the Highway Authority.

Alteration of highway to provide new or amend vehicle crossover

This permission does not authorise the applicant to carry out works within the publicly maintained highway since such works can only be carried out by the County Council's Approved Contractor, Ringway Infrastructure Service who can be contacted by email worcestershirevehicle.crossing@ringway.co.uk. The applicant is solely responsible for all costs associated with construction of the access.

END