
Appeal Decision

Site visit made on 26 September 2016

by Alison Partington BA (Hons) MA MRTPI

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

Decision date: 13 October 2016

Appeal Ref: APP/J1860/W/16/3153003

Promould Plastics, C2219 Pendock, Pendock, Worcestershire GL19 3PR

- 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 and Mrs M Stockley against the decision of Malvern Hills District Council.
 - The application Ref 15/01560/FUL, dated 24 September 2015, was refused by notice dated 13 January 2016.
 - The development proposed is the demolition of existing units (B1 use) and erection of 4 No. new dwellings, complete with landscaping.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The *South Worcestershire Development Plan* (SWDP) was adopted in February 2016, after the determination of the planning application, and as a result I have sought the views of both parties regarding this. Given that the SWDP was close to adoption, the reasons for refusal make reference to policies in both it and the *Malvern Hills District Local Plan (adopted July 2006)*. However, I have determined the appeal on the basis of the national and local policies as adopted at the present time.
3. Although at the time the application was determined the Council acknowledged that they could not demonstrate a 5 year housing land supply, following the adoption of the SWDP, the Council states that it now has a 5 year housing land supply. This change in position has not been disputed by the appellant. The calculation is not before me, but I have dealt with the appeal on the basis that a 5 year supply exists.
4. The third reason for refusal relates to the lack of any financial contributions towards affordable housing. However, the Council have indicated that following the Court of Appeal judgement in May 2016¹ and the subsequent alteration to the *Planning Practice Guidance*, they are no longer seeking a financial contribution towards off-site affordable housing from this development. Thus they are no longer pursuing this reason for refusal.

¹ Secretary of State for Communities and Local Government v West Berkshire District Council and Reading Borough Council C1/2015/2559; [2016] EWCA Civ 441

Main Issues

5. The main issues in this appeal are:

- Whether or not the proposed development would represent a sustainable pattern of development;
- The effect of the proposed development on the character and appearance of the area; and
- Whether or not the proposed development would provide adequate living conditions for future occupiers, with particular regard to noise and garden space.

Reasons

Sustainable pattern of development

6. Policy SWDP2 of the SWDP sets out the development strategy and settlement hierarchy for the area. In order to achieve sustainable development and economic prosperity it seeks to direct the majority of development to Worcester and the main towns in the area, although some growth is directed to Category 1, 2 and 3 villages that have a reasonable range of local services. Pendock is classified as a Category 3 village. As the Council can demonstrate a 5 year housing land supply, policies for the supply of housing can be considered up to date.
7. Although the appeal site lies within the village as defined by the road sign and the 30 mph speed limit, it lies outside the development boundary of the village, which focuses on the main housing areas either side of the M50. As such the site is defined as being in open countryside, where development is strictly controlled, and new housing is limited to dwellings for rural workers, rural exception sites and replacement dwellings. The scheme would be for open market housing, and so the proposed development would not meet any of the criteria for development outside of defined settlements. Accordingly, the appeal scheme would be contrary to this policy.
8. It has been highlighted that there are a number of houses on the opposite side of the road. However, both these and the appeal site are clearly separated from the main parts of the village by open fields, and the road between them and the village contains no pavements or street lights. As a result, the site and the surrounding housing is not functionally, or visually, well related to the main parts of the village.
9. Overall, I consider that the proposed development would be contrary to the development strategy for the area as set out in the SWDP, and so would not represent a sustainable pattern of development.

Character and appearance

10. The appeal site is currently occupied by a single storey industrial building and an associated informal parking area. Agricultural land surrounds the site, and the M50 is approximately 60m to the south. Although the western boundary is marked by hawthorn hedging and other shrubs, brambles and a low post and wire fence are found along the southern and eastern boundaries.

11. Although occupying an elevated position in relation to School Lane, roadside vegetation, and the vegetation around the site itself means views of the building when travelling along the road in either direction are limited. However, it is clearly visible from the adjacent public footpaths.
12. The proposed development would consist of 4 houses set one behind another, and a communal parking area to the front of the site. Whilst the proposed houses would be set into the ground and so would have a low profile which would limit their visual impact, the proposed layout of the dwellings would not relate well visually to the other houses in the vicinity. Moreover, the houses opposite are set in substantial plots, and this, together with the surrounding agricultural land, gives the area an open and spacious character. In marked contrast to this the proposed development would have 4 dwellings in close proximity to each other, and with only a limited garden area around each house. As a result, the development would appear very cramped and out of keeping with the prevailing character of the area.
13. In addition, the majority of the site would need to be surrounded by a 2.4m high close board fence to mitigate noise from the motorway. This hard boundary treatment would be an incongruous and discordant feature in this agricultural landscape. Whilst the layout plan shows landscaping beyond this fencing which could help soften its appearance, this is not provided on land within the boundary of the site, and as a result its provision, or retention, cannot be guaranteed. Furthermore, there does not appear to be sufficient space to provide any landscaping between the fence and the realigned public footpath. Consequently this would provide an unattractive environment for users of the footpath.
14. Given the difficulties in securing users for the site, it has been suggested that the site could become vacant and derelict to the visual detriment of the area. However, even if this should happen, given that the building is not a prominent feature in the landscape, I agree with the Council that the visual harm caused to the area would be limited.
15. All in all, I consider that the proposed development would have an adverse impact on the character and appearance of the area. As a result it would be contrary to Policies SWDP21 and SWDP25 of the SWDP which seek to ensure developments have a high quality of design that complement the character of the area and integrate with the character of the landscape.

Living Conditions

16. As the site has in close proximity to the M50 a noise assessment was submitted with the application. This concluded that to ensure that the noise levels within the gardens would be within the upper acceptable limit, a 2.4m high fence would need to be provided around the majority of the site boundary. However, as the redirected footpath would bisect the southern boundary, it would not be possible to provide the necessary continuous fence along this boundary. As such, I am not persuaded that adequate mitigation can be provided. Consequently, the ability to use the gardens would be severely compromised by noise from the motorway. Moreover, I note that adequate internal noise levels can only be achieved if the windows and doors on the properties remain shut. I consider that such a solution would result in poor living conditions for future occupiers.

17. The orientation of the properties is such that much of the gardens for properties 1-3 are likely to be in shade for large parts of the day from the dwelling to the south. In combination with the noise levels, this means that the gardens are unlikely to be pleasant places in which to spend time.
18. Therefore, I consider that the proposed development would not provide acceptable living conditions for future occupiers with particular regard to noise and garden space. Accordingly it would conflict with Policy SWDP25 of the SWDP which requires developments to have a high quality of design. It would also be contrary to the core planning principle (paragraph 17) of the Framework that planning should seek to secure high quality design, and a good standard of amenity for all existing and future occupants of land and buildings.

Other Matters

19. The proposal would result in a loss of an employment site, although it is indicated that the current businesses employ very few people, and that securing users for the site has been very difficult. Moreover, the construction of new houses would provide some temporary work for local contractors, and spending by new residents would also be beneficial to the local economy.
20. Whilst there is a school, church and shop/post office within the village, residents would have to travel elsewhere for virtually all their day to day needs. Given the very limited public transport in the village they would be largely reliant on the car to do this. Nevertheless this has to be set against the travel patterns associated with the existing commercial use of the site, which although not attracting significant vehicular movements at present, could do if used for by other types of businesses.
21. The provision of four dwellings would make a small contribution to housing supply in the area. Although the Council can demonstrate a 5 year housing supply, the government's objective is to significantly boost the supply of housing. To this end I also note the support for the scheme from the Parish Council who suggest that the smaller size of the dwellings would mean that they may be affordable for young people in the area. In addition, the re-use of the site for some alternative employment purposes could cause noise and disturbance issues for the nearby residents, whilst the appeal scheme would not.
22. It is not disputed that the site represents previously developed land, and the support for the re-use of such land as opposed to the use of greenfield land weighs in favour of the scheme. I note also that the scheme would incorporate various biodiversity measures which would also be a benefit of the proposal.
23. In support of the scheme my attention has been drawn to a number of other appeal decisions. I do not have the full details of any of these cases, but note that many pre-date the adoption of the SWDP when the Council did not have a 5 year housing supply. In addition, it is inevitable that there will be differences in the locational characteristics of the appeal site and the other sites, such as in terms of the surrounding landscape character and the relationship between the site and other developments. As a result, I only give limited weight to these other decisions, and have reached my own conclusion on the appeal scheme, on the basis of the evidence before me.

24. It has been highlighted that both B8 and B1 uses are allowed to convert to residential uses under the recent changes to the permitted development rights. Be that as it may, the appeal scheme is not for the conversion of the building, but for its demolition, and the re-use of the site.

Conclusion

25. Bringing these points together, in the scheme's favour it would provide new housing on previously developed land, would have some biodiversity and limited economic benefits. However, it would create an unsustainable pattern of development, would be detrimental to the character and appearance of the area, and would not provide adequate living conditions for future occupiers. Whilst I have given weight to the benefits of the scheme in my decision, I conclude that in this instance they would be outweighed by the adverse impacts. Consequently, the proposal would not represent sustainable development.
26. For the reasons set out above, I conclude the appeal should be dismissed.

Alison Partington

INSPECTOR