
Appeal Decision

Site visit made on 15 June 2016

by Claire Victory BA (Hons) BPI MRTPI

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

Decision date: 01 December 2016

Appeal Ref: APP/J1860/W/15/3140465

Bluebell Farm, Pershore Road, Earls Croome, Worcester WR8 9DJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant part full and part outline planning permission.
 - The appeal is made by Mr William Ball against the decision of Malvern Hills District Council.
 - The application Ref 15/00643/FUL, dated 5 May 2015, was refused by notice dated 29 July 2015.
 - The development proposed is conversion of existing stables into office accommodation (B1 use) and an outline application for the construction of up to 6 dwellings with all matters reserved except access.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Since the appeal was submitted, the South Worcestershire Development Plan (SWDP), produced jointly with Wychavon District Council and Worcester City Council was adopted on 25 February 2016. The LP policies referred to on the Decision Notice have been superseded by the SWDP. In addition, parts of the District, including the appeal site, were designated as a Designated Rural Area (DRA).¹ I deal with this matter in more detail below.
3. The application sought full planning permission for the conversion of the stables and was an outline application for the new dwellings, with all matters reserved except access.
4. I have also had regard to further representations by both parties on the West Berkshire Court of Appeal judgement² relating to planning obligations and affordable housing and tariff-style contributions and an Appeal Decision at Clay Green Farm³ for residential development.

Application for costs

5. An application for costs was made by Mr William Ball against Malvern Hills District Council. This application is the subject of a separate Decision.

¹ Area designated under the Housing (Right to Buy) (Designated Rural Areas and Designated Regions) (England) Order 2016 which came into force on 20 June 2016

² Secretary of State for Communities and Local Government V West Berkshire District Council and Reading Borough Council C12015/2559; [2016] EWCA Civ 441

³ Appeal Ref APP/J1860/W/15/3062074

Background and Main Issues

6. The sole reason for refusal related to the location of the site outside any defined settlement boundary and within a location said to have limited or no sustainable access to the range of services and facilities required to support the development. However, since the application was determined, the SWDP has been adopted and the area subject to the appeal has been designated as a Designated Rural Areas (DRA). As the Council are now seeking affordable housing provision as part of the appeal proposal, I consider the main issues to be:
- Whether the proposal would make adequate provision for affordable housing, having regard to relevant development plan policies and Government policy; and
 - Whether residents would have satisfactory access to local services and facilities.

Reasons

Affordable Housing

7. Affordable housing was not a reason for refusal at the time of the decision on 29 July 2015, prior to the West Berkshire Court of Appeal judgement of 31 July 2015, which held that affordable housing contributions could not be sought on sites of 10 dwellings or less.
8. Subsequent to the submission of the appeal, the SWDP was adopted in February 2016. Policy SWDP15 requires developments of 5-9 dwellings to provide 20% affordable housing on-site, and for schemes of less than 5 dwellings to make a financial contribution equivalent in value to 20% of the units as affordable housing on site. Further to the above, the appeal site became part of a Designated Rural Area on 20 June 2016. This provides for local planning authorities to seek off-site affordable housing contributions for 6-10 units.
9. The Council accepts that planning permission ref. 12/01074/S73 for the conversion of the stables into 3 residential units is extant and part implemented. Furthermore it contends that 9 residential units could be provided on the site if both the aforementioned permission and the appeal proposal are implemented, and thus affordable housing contributions should also be payable for the 3 permitted units. However, notwithstanding the appellant's suggested condition to avoid that eventuality, the Council has already permitted the earlier scheme and it would be unreasonable to seek such provision after the event.
10. It has also been suggested by the appellant that a condition could be imposed to prevent the creation of more than 5 residential units without provision for affordable housing. However, there is still a policy expectation for affordable housing provision for less than 5 units so a condition would not avoid this. The appellant has stated he is not unwilling to make an appropriate contribution for affordable housing but that the policy position has been fluid. Nonetheless, whilst a unilateral undertaking to provide such a contribution has been offered should the appeal be allowed, no undertaking is before me.

11. I also note that in the case of a recent appeal at Old Incineration Unit, Hangmans Lane, Hanley Castle⁴, the Inspector concluded affordable housing was not required, but although this was after the designation of the DRA, it is unclear whether the matter of the DRA designation was brought to the attention of the Inspector. In particular, the DRA was not referred to by the Inspector in their reasoning.
12. Taking all of the above into account, I conclude that the proposal would not make adequate provision for affordable housing, contrary to Policy SWDP15.

Local services and facilities

13. Bluebell Farm is formed of a detached dwelling and several outbuildings including stables and a Dutch barn. Aside from another dwelling to the north of the appeal site, the area is generally characterised by open countryside, and lies outside any designated settlement. Policy SWD1 of the SWDP does not support development outside defined settlements. The site lies approximately 1.7km from the settlement of Upton upon Severn, which has a range of facilities including shops, public house and primary school. In addition there is a church and village hall about 1km away in Earls Croome.
14. There is a bus service about every hour during the working day to Malvern and Worcester, and bus stops are located about 80m from the appeal site near to a central crossing refuge on Main Road, near to the junction with the A4104. Cycling would be an option for some residents, although it would not be appropriate for all. However, the 1.7km distance from Upton to the appeal site would be at the outer limits of a walkable distance, particularly for elderly people or those accompanying children, and although there is a segregated footway, the lack of street lighting for most of the route would be likely to deter pedestrians.
15. The appellant has referred to other sites outside the settlement boundary of Upton upon Severn where residential development has been permitted by the Council. I have taken these into account but they have limited significance for my findings that this particular site is not well located in relation to services and facilities.
16. I therefore conclude that the proposal would not provide satisfactory access to local services and facilities. This would conflict with Policy SWDP4, which requires proposal to provide genuinely sustainable transport choices and the Framework, which requires that planning should actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling.

Other Matters

17. The appeal site has a mixed use of one dwelling, use of keeping horses, and base for a haulage business, including storage, repair and sales of vehicles and plant. The parties dispute the extent of brownfield land on the site, but although the Framework encourages the use of brownfield, it is not a trump card and does not necessarily mean that all brownfield should be developed, irrespective of all other considerations. As such, the extent of brownfield land within the site is not an overriding factor in this appeal.

⁴ APP/J1860/W/15/3136752

18. In addition, reference was made in the July Planning Committee update to potential for a new roundabout to replace the staggered junction of A38/A4104, but no details of any consultation have been provided and thus this matter has little bearing on my decision.

Balancing and Conclusion

19. At the time of determining the application the Council could not demonstrate a 5 year land supply. The Council now considers it is able to demonstrate 5.5 years of deliverable housing sites. Although the appellant disputes this, and asserts that the Council has underperformed in housing delivery under the preceding plan regime, no compelling evidence has been supplied to challenge the figure put forward by the Council. Furthermore, this is consistent with the findings in the Clay Green Farm appeal. Therefore, for the purposes of this appeal I consider that the Council does have a 5 year supply of deliverable housing sites as required by paragraph 47 of the Framework, and relevant policies for the supply of housing are up to date.
20. I have found that the proposal would not make adequate provision for affordable housing and would not provide satisfactory access to local services and facilities for future residents. As such it would be contrary to the development plan. In the allowed appeal at Clay Green Farm, the Inspector found that the development was in accordance with the development plan as a whole, and there were other factors at play including the improvement of the setting of heritage assets and biodiversity enhancements, which weighed in favour of that proposal.
21. The appellant has pointed out that the SWDP seeks to provide 40% of dwellings on brownfield land, and that the conversion of the stables to business units would support rural enterprise. However, even if the entire site were to be treated as brownfield these benefits would not be sufficient to overcome the harm that would be caused by the appeal scheme.
22. For the reasons set out above I conclude that the appeal should be dismissed.

Claire Victory

INSPECTOR