The Planning Inspectorate

Appeal Decision

Site visit made on 21 February 2017

by Jonathan Tudor BA (Hons), Solicitor (non-practising)

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

Decision date: 13 April 2017

Appeal Ref: APP/J1860/W/16/3162054
Alma Cottage, Pendock, Worcestershire GL19 3PG

- 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 A Morris against the decision of Malvern Hills District Council.
- The application Ref 16/00573/FUL, dated 7 April 2016, was refused by notice dated 26 July 2016.
- The development proposed is change of use of disused agricultural building to residential use and associated building operations. Formation of new vehicular access.

Decision

1. The appeal is dismissed.

Procedural Matters

2. In their statement of appeal the appellants advise that the date of application referred to on the Council's decision notice of 7 April is incorrect. They say that the planning application was submitted on 25 April 2016. However, the appellants' appeal form refers to a date of 28 April 2016. As the date on the appellants' planning application form declaration is 7 April 2016, in the absence of a clear alternative agreed date, I have used that date in the banner heading above.

3. The description of development in the heading has been taken from the planning application form. In Part E of the appeal form it is stated that the description of development has not changed but a different wording, which appears to have been taken from the Council's decision notice, has been used. Neither of the main parties has provided written confirmation that a revised description of the development has been agreed. Accordingly, I have used the one given on the original application as it adequately describes the proposal.

Main Issue

4. The main issue is whether the proposed development would be in a suitable location, given that the appeal site lies outside the development boundary.

Reasons

5. The appeal building is located within a small agricultural paddock. It was once occupied residentially but that use ended a considerable time ago and is considered abandoned by the Council. More recently Alma Cottage has been used for the storage of hay and farm equipment. The building had fallen into

disrepair but works were carried out to repair and partially rebuild it. Retrospective planning permission was given in 2015 for those works.

6. The paddock is next to the road and south of the cross-roads in the small rural village of Pendock. It is immediately adjacent to the development boundary, as defined in the South Worcestershire Development Plan (SWDP).[1] However, as it is outside the development boundary, Policy SWDP 2 considers it to be open countryside. That policy aims to focus most development on urban areas, where both housing needs and accessibility to lower-cost public services are greatest. It also sets out a settlement hierarchy by which windfall developments are to be assessed.

7. SWDP 2 explains that a number of housing sites of an appropriate scale are allocated in category 1, 2 and 3 villages, which are in fourth position in the hierarchy, to address the need for housing and to provide support for local services. Pendock is classified as a category 3 village. Policy SWDP 59 of the SWDP makes allocations for new housing for such villages but there is no allocation for Pendock.

8. The policy does allow for housing proposals, in addition to allocated sites, in all villages subject to SWDP 2 part B. It states that larger settlements generally tend to provide the greatest range of services and are suited to accommodate market and affordable housing. However, such proposals must, according to SWDP 59, also be either located within defined development boundaries, part of a local initiative such as a Neighbourhood Plan, Community Right to Build Order or Neighbourhood Development Order or a Rural Exception Site. The proposal does not fall within those categories and therefore contravenes those parts of SWDP 2 and SWDP 59.

9. The appellant refers to two sites in Pendock, identified in the Strategic Housing Land Availability Assessment (SHLAA) prepared as part of the SWDP in April 2015, which are outside the development boundary. However, the Council advises that those sites were ultimately not included in the adopted SWDP.

10. Pendock has limited services and facilities mainly consisting of a small shop and a school. Two local residents have indicated that there is no regular bus service. The appellants state that local bus services are limited but refer to a 'pre-booked community action service' close to the site. However, no detailed information on the availability or regularity of such public transport links has been provided.

11. Albeit in commenting on another appeal decision, the appellants' advise that Ledbury is the nearest 'main town' to Pendock and is some 8 miles away. It is also implied that bus travel or indeed cycling to such larger settlements would not be feasible from Pendock. In addition, the 'Feasibility Study of the alternative uses for Alma Cottage', supplied by the appellants, refers to Pendock as a remote location due to its distance from Ledbury, Malvern, Worcester, Tewkesbury and Gloucester. Though those comments pertained to small business use, the basic geographical facts are pertinent to the appeal.

12. Therefore, whilst the appeal site is adjacent to the cluster of residential buildings congregated around Pendock Cross, it is in a small rural village split over two locations, where future residents would be reliant on the motor car for

[1] Adopted February 2016

most journeys. The appellants submit that the site is closer to the village shop and school than residential development to the west. However, those are existing dwellings which presumably pre-date the SWDP which provides a strategic framework for future development.

13. Policy SWDP 2 also seeks to strictly control development in the open countryside limiting it to specified exceptions such as dwellings for rural workers. The proposal does not meet any of the exceptions and is, therefore, in clear conflict with Policy SWDP 2 C.

14. The appellants refer to two planning consents[2] for development outside the development boundary for Pendock. However, one of the permissions pre-dates the adoption of the SWDP and the Council advises that both were considered at a time when the Council could not demonstrate a five year housing land supply. Therefore, policies relevant to or affecting the supply of housing would have been considered out-of-date by virtue of Paragraphs 49 and 14 of the National Planning Policy Framework (the Framework). Consequently, those proposals would have benefitted from the tilted balance in favour of development offered by the fourth bullet point of Paragraph 14.

15. The Council advise that they can now demonstrate a 6.7 year housing land supply, which has not been disputed by the appellants, which means that SWDP policies should be given full weight. Therefore, I do not find that those planning permissions are directly comparable to the appeal before me as the circumstances have materially changed.

16. The appellants also refer to two appeal decisions[3] including one relating to The Cart Shed issued on 21 July 2016. It also involved the proposed conversion of an existing agricultural building to a dwelling. Again it was outside any development boundary but the relevant village, Ripple, had no development boundary at all rather than a carefully defined one as is the case in the appeal before me.

17. I do not have full details of the evidence relevant to that case. Moreover, the court judgement cited by the Council,[4] issued on 22 November 2016 well after that appeal decision, has clarified the approach to the presumption in favour of sustainable development, which only exists within the circumstances set out in paragraph 14 of the Framework. The judgement emphasises that the development plan is the vehicle for the delivery of sustainable development and that proposals which conflict with an up-to-date plan should be refused unless material considerations indicate otherwise. Therefore, though there are similarities between that appeal and the case before me there are also differences. In any event, I have decided the appeal on its own merits.

18. The Framework is a material consideration. Paragraph 55 recognises that there is a case for housing in rural areas where it will enhance or maintain the vitality of rural communities. Though there would be some economic benefit from the proposal during the conversion phase, those works would be limited. Future occupants would make some contribution towards the viability of local services. In social terms, there would be a contribution to the supply of housing and a one bedroom property may be more affordable than some. However, as there

[2] Refs: 15/00340/FUL and 15/01346/OUT
[3] APP/J1860/W/15/3140849 and APP/H1840/W/16/3152337
[4] East Staffordshire Borough Council v SOS for Communities and Local Government & Barwood Strategic Land II LLP [2016] EWHC 2973

is a 6.7 year housing land supply there is no current shortfall. Further, any benefits would be inevitably limited by the fact that the proposal is for just one dwelling with one bedroom.

19. Environmentally, the appeal property is located within a one acre paddock in a rural village surrounded by agricultural fields. The appellants refer to a new boundary hedge but some hedging would also be lost in the creation of the access. Furthermore, the development would be in the open countryside which SWDP 2 seeks to protect. Overall, I consider that any benefits of the proposal are limited and outweighed by its clear conflict with the SWDP.

20. Moreover, paragraph 55 of the Framework advises that new isolated homes in the countryside should be avoided unless there are special circumstances. One of those exceptions is where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting.

21. Whilst no items were being stored in the building at the time of my site visit, the appellants advise that it has been used for the storage of hay and general farm equipment as part of the associated smallholding at Tuscan Cottage. Furthermore, retrospective planning permission, applied for in 2014 and granted in 2015, authorised the repair and partial rebuild of the existing agricultural building. The relevant Council Officer's report also referred to Alma Cottage as an existing agricultural storage building. Therefore, as the building has been in relatively recent use, I do not see that it can be considered redundant or disused.

22. The appellants advise that the repair work was carried out to make the building safe and secure. Further, that the associated paddock is small and separated from the remainder of the small holding on the other side of the road. However, Tuscan Cottage is almost immediately opposite the current entrance to the paddock and it is not unusual for agricultural holdings to be dispersed across different sites much further apart. Therefore, I do not consider that its size or relative position makes it redundant.

23. Security concerns are cited as limiting the use of the building for storage because of its distance from the main house. However, the distance is short and an alarm system could be installed if there was a desire to store higher value items.

24. Whilst I note the limitations referred to by the appellants concerning the size and narrow entrance and other factors, those constraints do not appear to have prevented the building being used for agricultural storage in the recent past. Presumably, there would also have been some opportunity for the appellants to have considered the constraints before conducting the previous repairs and partial rebuild which established the building in its present form.

25. Given that context and the recent use of the building for storage purposes, I do not consider that sufficient evidence has been presented to show that it is redundant or disused. Neither does it have the appearance of a redundant or disused building which are often characterised by being in a poor state of repair.

26. The other aspect of the exception contained in Paragraph 55 is that the development should lead to an enhancement to the immediate setting. The appellants refer to the proximity of Alma Cottage to residential properties in its

backdrop. However, as it already has a domestic style appearance and has been repaired and partially rebuilt, I do not consider that the agricultural use of the building would appear incongruous in that context. It is located in a small rural village where agricultural buildings and paddock areas would not appear out of the ordinary.

27. It is submitted by the appellants that the proposed works to convert the building would not materially affect its appearance and would cause no harm. The appellants also refer to current debris being cleared from around the building if the proposal were approved, but such debris could be removed in any case and I only saw a limited number of items outside the building on my site visit. The proposed changes, including the replacement of the roof's metal sheeting with tiles, the creation of a garden area with orchard and the addition of a boundary hedge would improve the landscape, according to the appellants. However, the existing renovated building and paddock do not look incongruous in the area. Therefore, I agree with the Council that those changes would have a neutral effect.

28. However, it could be argued that the creation of an open car parking area for two vehicles, visible from the road through the new entrance, would have a detrimental effect on the setting. In any event, causing no harm is not the same as enhancing a setting, which suggests improving it. Therefore, I do not see that proposal would enhance the current immediate setting as required by paragraph 55.

29. The appellants also refer to recent changes to the General Permitted Development Order[5] relating to the change of use of agricultural buildings to dwellinghouses, though subject to detailed criteria. Whilst I understand the point being made, the appeal relates to a planning application rather than permitted development. Therefore, I do not consider the class Q changes to be directly relevant.

30. Policy SWDP 12 of the SWDP states that where planning permission is required for the residential conversion of a building as part of a farm diversification project, it will only be granted where a marketing exercise has shown that employment, tourist, leisure and recreation uses are unviable. The Council refers to that policy in its decision notice and takes the view that it is relevant. It says that the marketing information supplied, dating from a period between 2010 and 2013, is insufficient and cites an appeal decision at Merry Brook[6] in support of its position.

31. I agree with the Inspector in the Merry Brook appeal that Policy SWDP 12 is, in combination with Policy SWDP 2, intended to restrict unsustainable residential dwellings in the countryside and favours employment uses of rural buildings over residential use. However, as the appellants point out, that appeal concerned a former winery with an established previous employment use, which the Inspector appears to have found significant and refers to in paragraphs 8 and 13 of his decision. That distinguishes the case from the appeal before me where there is no previous employment use. Therefore, I do not find that a direct comparison can be made.

[5] The Town and Country Planning (General Permitted Development) (England) Order 2015
[6] APP/H1840/W/16/3145667

32. The policy also offers some flexibility in its application, which is referred to by the Inspector in an appeal decision at Land adjacent to Clover Patch,[7] cited by the appellants. The reasoned justification for the policy indicates 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'.* Furthermore, the associated annexe F detailing marketing requirements states that: *'It will not be necessary to comply with these requirements on all occasions'.* It says that it will be a matter for the decision-maker.

33. The Council considers that the Clover Patch appeal is not comparable because there were also concerns about the suitability of the site for employment purposes, due to highway and car parking constraints and the physical condition of the buildings. Whilst they were matters taken into account by the Inspector, I do not consider that they were integral to the interpretation of the flexibility within Policy SWDP 12. Therefore, I find that the comparison holds in that respect.

34. Notwithstanding dispute about the sufficiency of any marketing exercise, as there is no clear evidence that the appeal proposal is directly related to or part of a farm diversification project, as envisaged by part E of SWDP 12, I do not consider that Policy SWDP 12 is directly relevant.

35. Overall however, the material considerations advanced are not sufficient to outweigh the clear conflict with the development plan. Therefore, I conclude that the proposed development would not be in a suitable location, given that the appeal site lies outside the development boundary, with poor accessibility to services and facilities. Consequently, the proposal would conflict with Policies SWDP 1, SWDP 2 and SWDP 59 of the SWDP which, amongst other things, seek to achieve sustainable development through a hierarchical development strategy and by strictly controlling development in the open countryside. It would also be contrary to similar aims within paragraphs 7, 17 and 55 of the Framework.

Conclusion

36. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Jonathan Tudor

INSPECTOR

[7] APP/H1840/W/16/3152337