The Planning Inspectorate

Appeal Decision

Site visit made on 22 August 2017

by D Boffin BSc (Hons) DipTP MRTPI Dip Bldg Cons (RICS) IHBC

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

Decision date: 05 October 2017

Appeal Ref: APP/H1840/W/17/3175477
Norton Barn, Harvington Lane, Norton WR11 4TN

- 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 & Mrs SK Campbell against the decision of Wychavon District Council.
- The application Ref W/16/02165/PN, dated 5 September 2016, was refused by notice dated 23 November 2016.
- The development proposed is a self-build one bed retirement dwelling on an existing residential/builder's yard.

Decision

1. The appeal is dismissed.

Preliminary Matter

2. The appellant has referred to Policy SWDP 13 of the South Worcestershire Development Plan (SWDP). However, I have not been provided with a copy of this policy and as such I give it little weight.

Main Issue

3. The main issue is whether the site would be a suitable location for a dwelling having regard to the policies of the development plan and the National Planning Policy Framework (the Framework) and any other material considerations.

Reasons

4. The appeal site comprises an undeveloped area that is landscaped and appears to form part of the curtilage of Norton Barn, the appellants' dwelling. The site is within the Norton Conservation Area (NCA). To the south of the site are further residential dwellings including the Granary, Rowan House and Orleans which are all grade II listed buildings. There is a builder's yard and large timber building to the east of the site but the yard appears to have been disused for some time taking into account the overgrown nature of the vegetation within it. There are orchards to the north of the site.

5. Paragraph 12 of the Framework makes it clear that the statutory status of the development plan as the starting point for decision making has not changed. Development that conflicts with an up-to-date development plan should be refused unless other material considerations indicate otherwise.

6. The Council have stated that they can demonstrate a 5 year supply of housing land (HLS). This is not disputed by the appellants. In such circumstances, the

Framework at paragraph 49 sets out that relevant policies for the supply of housing can be considered up-to-date and paragraph 14 of the Framework sets out a presumption in favour of sustainable development. For decision taking this means *'approving proposals which accord with the development plan without delay'*.

7. The development plan includes the SWDP which was adopted in February 2016. Policy SWDP 1 sets out the general presumption in favour of sustainable development. Policy SWDP 2 is a key policy of the development plan setting out the development strategy and settlement hierarchy. There is no dispute between the parties that the site is not within the development boundary of Norton & Lenchwick. Sites outside the development boundaries are to be considered as open countryside, for the purposes of Policy SWDP 2, where development will be strictly controlled. 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.

8. The development boundary for Norton & Lenchwick reflects that shown on Inset Plan 71 of the Wychavon District Local Plan (2006) which no longer forms part of the development plan for the Council's area. The delineation of a development boundary is a matter which would normally be considered when a new development plan is prepared, in the light of any representations made through consultation exercises. The appellants considers that the development boundary should have been amended to take into account 2 appeal decisions[1], which they have brought to my attention, adjacent to the settlement. However, I have no evidence before me as to whether the amendment or delineation of the development boundary was considered during the SWDP process. Consequently, there is insufficient evidence to demonstrate that the development boundary for Norton & Lenchwick is out-of-date.

9. The development would not fall within one of the categories of development allowed by Part C of Policy SWDP 2 and as such it would be in conflict with this policy. The proposal for a dwelling on the appeal site would therefore conflict with the strategy for the location of new housing in the relatively recently adopted SWDP. Nonetheless, there are a number of other material considerations that I must take into account.

10. Norton & Lenchwick is a Category 4B settlement which is the fifth position in the hierarchy and Policy SWDP 2 states that these villages tend to be very small and at best offer one or two local services. I noted that a church and public house are within walking distance of the appeal site. There is a regular twice an hour bus service to Evesham, Harvington and Stratford upon Avon from nearby bus stops. Harvington is a Category 2 settlement that has a number of services and facilities. From my observations at the site visit I consider that the services and facilities within Harvington and Evesham would be within an acceptable cycling distance of the site and this mode of travel could be an option for some residents, although I accept that this would not be suitable for all.

11. Nonetheless, there would be a choice of transport modes for future residents and paragraph 29 of the Framework recognises that opportunities to maximise sustainable transport solutions will vary from urban to rural areas. Consistent

[1] APP/H1840/A/14/2213028 & APP/H1840/A/14/2213555

with the Framework Policy SWDP 4 requires, amongst other matters, that proposals must offer genuinely sustainable transport choices.

12. The proposed development would not be located in an inaccessible location, far from services and facilities. As such, I do not consider that the dwelling would be isolated in terms of paragraph 55 of the Framework. However, whilst some facilities may be reasonably accessible by cycling and /or walking it seems to me that future occupiers would for some of the time and for convenience reasons be likely to opt to rely on the use of private cars in order to access day to day facilities and services. I recognise that such car journeys may be short in length and that the proposal is only for a single dwelling and therefore traffic generation and greenhouse gas emissions attributed to its use would be limited.

13. Nevertheless, the same circumstances would arise in relation to many sites which are close to the development boundaries of this and other villages at the same level within the settlement hierarchy. This factor simply indicates that the proposal would not cause significant harm in this respect. All in all, I am not persuaded that the proposal would offer genuinely sustainable transport choices. The proposal would therefore be contrary to Policy SWDP 4. I consider that my finding is consistent with the previous Inspector's finding on the 2 appeal decisions cited above as she stated *"The particular combination of factors in this case leads me to conclude that the proposal's adverse effects in terms of a less sustainable location and some increase in travel by private car .."*

14. Paragraph 55 of the Framework sets out that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. However, the contribution one new dwelling would make to the vitality of the rural community would be small. Moreover, there is no evidence to suggest that the existing services and facilities within the nearby settlements are under threat.

15. There is no dispute that the site is previously developed land and this is a benefit of the proposal. The proposal would be constructed in materials and of an architectural style that would reflect those used locally. Furthermore, it would be located with existing built development on 3 sides and it would be difficult to view the building from a public vantage point. Consequently, the development would not result in a visually isolated or sporadic dwelling in the open countryside and the proposal would not appreciably harm the character and appearance of the area.

16. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, (the Act) requires the decision maker, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest. S.72(1) of the Act requires that, in the exercise of planning powers in conservation areas, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

17. Rowan House, Orleans and the Granary are grade II listed buildings. From the evidence available to me I consider that the significance of each of these buildings is largely derived from its form, fabric, age and architectural features. I am satisfied that this significance is mainly experienced from within their

individual curtilages and immediate settings. The proposal would have no impact on those immediate settings or on the ability of the public to interpret their significance. Accordingly, there would be no harm to the setting or significance of the listed buildings.

18. NCA covers the historic core of the village and from the details available to me I consider that the significance of NCA is largely drawn from the variety of historic buildings that it contains together with its use of materials, pattern of development and the relationship of buildings to the spaces around them. The proposal would have the appearance of a vernacular agricultural building and as such it would sit comfortably within the surrounding development. Consequently, the proposal would preserve the character and appearance of NCA.

19. As stated above, the appellants have drawn my attention to appeal decisions adjacent to Norton & Lenchwick. Whilst there may be parallels with the appeal before me in relation to the accessibility of the site these decisions were determined before the SWDP was adopted and a different approach to decision-taking was therefore required in those cases. The appellants have also drawn my attention to a planning decision at Hays Farm. However, I do not know of the circumstances that led to this proposal being accepted and so cannot be sure that it represents a direct parallel to the appeal proposal. In any case I am required to determine the appeal on its own individual merits.

20. Planning permission was granted for a workshop building on the appeal site as part of the overall planning permission and listed building consent for the conversion of the Granary into a dwelling in 1998. This permission could be extant but I note that Condition 11 of W/98/1243 states that the workshop shall only be used for domestic storage purposes. As such its use would be restricted to being ancillary to the dwelling. Moreover, as the existing timber building, builder's yard and its entrance/exit would not be inhibited by the proposed development that use would not be extinguished by it. As such, it has little weight as a fallback position.

21. Reference is made to the Housing White Paper[2] and Self-Build and Custom Housebuilding Act 2015 (SBCH Act), which promote opportunities for such development and I have had regard to these documents. The SBCH Act requires Council's to keep a register of people who wish to acquire land for self-build dwellings and that regard is had to this register when exercising planning functions. The Housing and Planning Act 2016, places a further duty upon Council's to grant permission on enough serviced plots to meet the demand for self-building in their area. The Council have stated that there are currently 30 entries on the Wychavon Self-Build and Custom Housebuilding Register, including Stanley Campbell (one of the appellants). Given that there is only a limited need for self-build properties in the locality I am not satisfied that it has been demonstrated that this need could not be met through other sites within the development boundaries of nearby settlements.

22. The appellants have stated a clear intention to occupy the appeal proposal as their home and submit that the dwelling has been designed to meet accessibility standards to enable them to live there into old age both of which provide some indication that the proposal is likely to be pursued as a self-build

[2] Fixing Our Broken Housing Market, Department of Communities and Local Government, February 2017

project. Furthermore, the dwelling would enable them to continue to live close to friends and relatives.

23. However, the 2 appeal decisions referred to mean that there are 2 sites within the settlement that have planning consent for a number of dwellings and one of these was for 8 bungalows. Taking into account all of the above, I afford the self-build nature of the proposal limited weight in favour of the development. I understand the wishes of the appellants to continue to live on the site and utilise his family's skills in building the dwelling but little weight can be attached to such personal circumstances.

Overall Balance and Conclusions

24. As set out in S38(6) of the Planning and Compulsory Purchase Act 2004, if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise. The location of the site outside the defined development boundary for Norton & Lenchwick would result in conflict with Policy SWDP 2. I have also found that future occupiers would be likely to opt to rely on the use of private cars and that the proposal would conflict with Policy SWDP 4. Accordingly, the proposal would fail to comply with the development plan. The Framework establishes, as a core planning principle, that planning should be genuinely plan-led.

25. The appellants refer to the three dimensions of sustainable development set out in the Framework: economic, social and environmental. The proposal would provide a new dwelling that would contribute to the economic role by generating employment opportunities during development and by encouraging economically active residents into the area. However, this benefit would be limited given the proposal is for one dwelling.

26. The proposal would provide a self-build dwelling that would provide accommodation for the appellants into their old age. Prospective occupiers would provide some support for local services. However, as stated above the contribution one new dwelling would make to the vitality of the rural community would be small. The proposal would therefore have some limited social benefits.

27. In environmental terms I have found that future occupiers would tend to rely on travel by the private car but the site would use previously developed land. The proposal would not harm the character and appearance of the area including NCA and the settings of the nearby listed buildings would be preserved. The appellants have stated that the dwelling would be energy efficient. As such I consider that the proposal would be neutral in environmental terms.

28. Reference is made to 2 court judgements[3] and I have had regard to these documents. I consider that the judgements support the approach taken in this decision. I accept that the Inspector in the 2 appeal decisions, referred to

[3] Secretary of State for Communities and Local Government v Hopkins Homes Ltd; Richborough Estates Partnership LLP v Cheshire East Borough Council, also known as Suffolk Coastal DC v Hopkins Homes Ltd [2017] UKSC 37; Court of Appeal [2016] EWCA Civ 168; High Court [2015] EWHC 132 (Admin) & East Staffordshire Borough Council v SOS for Communities and Local Government & Barwood Strategic Land II LLP [2016] EWHC 2973

above, considered that the schemes before her represented sustainable development. Those decisions predated both of the above judgements and at that stage the SWDP was still an emerging document. The SWDP has now been adopted and the proposed development would fail to comply with its policies.

29. The failure to comply with the development plan leads me to conclude that the proposal would not be sustainable development. Taking into account all of the above, whilst there are limited benefits associated with the proposal I consider that there are no material considerations of such weight to lead me to the conclusion that the proposal should be determined other than in accordance with the development plan. Having regard to all other matters raised therefore, I conclude that the appeal should be dismissed.

D. Boffin

INSPECTOR