The Planning Inspectorate

Appeal Decision

Site visit made on 9 October 2017

by Rachel Walmsley BSc MSc MA MRTPI

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

Decision date: 03 November 2017

Appeal Ref: APP/H1840/W/17/3177832
Land adjoining Meadow View, Evesham Road, Upper Moor WR10 2JR

- 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 Mrs K. Minhas against the decision of Wychavon District Council.
- The application Ref W/16/02736/RM, dated 17 November 2016, was refused by notice dated 13 March 2017.
- The development proposed is erection of 2 no detached live/work units served by a private drive access.

Decision

1. The appeal is dismissed.

Procedural matter

2. The description of development in the heading above has been taken from the planning application form. However, in Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording has been entered. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application.

Main Issue

3. This is whether the proposed live/work accommodation would be acceptable having regard to local policy.

Reasons

4. The appeal proposal relates to live/work accommodation and a garage with work space in it.

5. Criteria G of policy SWDP8 of the South Worcestershire Development Plan (SWDP)[1] supports live/work accommodation provided that it meets the criteria listed. The Council's concerns relate to criteria (i) and (iii) and on the basis of the evidence before me I find no reason to consider criteria other than these to be of concern.

6. Criterion (i) seeks to ensure that the residential use is ancillary and therefore proposals for live/work accommodation are permitted provided that the split of accommodation encompasses *at least 60% employment and no more than*

[1] South Worcestershire Development Plan (adopted February 2016)

40% residential. The work space proposed would be less than 60% and residential more than 40% and as a result the development would not provide ancillary residential use in the way criterion (i) requires. Whilst the residential floor space would be less than the area of office, this difference would be negligible and insufficient to qualify as being ancillary for the purposes of policy SWDP8.

7. Criterion (iii) seeks residential and work spaces that are entirely separate with separate entrances and toilet facilities. The work space and residential accommodation proposed in the live/work unit would share an entrance at ground floor level, contrary to criterion (iii).

8. The Council explains that as a result of the shared access, visitors to the work space on the second floor would need to walk up two flights of stairs and past bedrooms. The harm resulting from this is not explained. The drawings before me show a board meeting room within the work area which implies the likelihood of visitors. Access to this space via two flights of stairs is somewhat convoluted.

9. Furthermore, visitors passing the bedrooms on the first floor are likely to disturb prospective occupiers when asleep. The appellant suggests that visitors would only visit the detached work unit, plus the work space at second floor level would only operate during normal working hours when the bedrooms would not be in use. However, there is nothing within the evidence before me to suggest that if planning permission was granted it would be fettered. Consequently, the movements of visitors would depend on the nature of the business operating and being a live/work unit where the type of business would be unrestricted with any planning permission, the harm to the living conditions of prospective occupiers, as identified, would not be overcome.

10. I recognise the rationale behind the design proposed, not least to avoid the work unit being sold off separately in the future. However, there is nothing within the evidence before me to suggest that the layout proposed is the only design solution to achieve this objective. In the absence of any specific or substantive evidence to suggest otherwise, therefore, I am of the view that an alternative internal arrangement could be found.

11. The Council considers the proposal contrary to paragraph 21 of the National Planning Policy Framework (the Framework). In helping to build a strong and competitive economy the Framework encourages the integration of residential and commercial uses within the same unit. The planning unit is generally the unit of occupation; in this case the live/work unit and the garage. Within this, residential and commercial uses are integrated and therefore I do not find that the development would be contrary to paragraph 21 of the Framework.

12. The Council cites policy SWDP21 in its reason for refusal, explaining that the functional deficiencies of the development would be contrary to this policy; most notably criterion B (i) which requires the siting and layout of a development to reflect the characteristics of the site in terms of appearance and function. The concerns raised for functionality do not relate to the site's

characteristics and therefore I do not concur with the Council that the development would be contrary to policy SWDP21.

13. I note planning permission 17/01454/FUL which allowed a split of live/work accommodation that did not meet policy requirements. However, this planning permission amended an earlier permission for a live/work unit and therefore the context to planning permission 17/01454/FUL is not the same as for the appeal proposal. As a result, this matter does not carry favourable weight in the form of precedent.

14. Staying with the matter of precedent the appellant draws my attention to live/work units to the west of the appeal site which were approved prior to the current development plan being adopted, as was the outline permission for the development proposed. This change in planning policy is a material change in circumstances. Furthermore, I am required to make my decision on the basis of the development plan in place at that time. Consequently previous permissions do not imply that the development proposed is compliant with current policy.

15. In all, therefore, having had regard to local policy I find that the split of commercial and residential accommodation and the shared access proposed would result in the proposed live/work accommodation being unacceptable.

Other matters

16. The support the development would give to rural economic growth and the development of an unkempt site are positive attributes. The Council's lack of objection to matters such as parking provision and scale and appearance are equally positive and collectively constitute limited benefits.

Conclusion

17. Paragraph 12 of the Framework states that proposed development that conflicts with the Local Plan should be refused unless other material considerations indicate otherwise. The development would conflict with criteria G (i) and (iii) of policy SWDP8. The limited benefits identified do not outweigh this conflict. Having had regard to all other matters raised, I find that the proposal would be contrary to the development plan and as a result the appeal is dismissed.

R Walmsley

INSPECTOR