



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: 3RD November 2017

Appeal Ref: APP/H1840/W/17/3177886
Manor Farm, Hadzor Lane, Hadzor WR9 7DR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mrs L Watton against the decision of Wychavon District Council.
 - The application Ref 17/00707/CU, dated 3 April 2017, was refused by notice dated 30 May 2017.
 - The application sought planning permission for change of use of existing holiday let to pool house to residential annexe, ancillary to Manor Farm without complying with a condition attached to planning permission Ref W/14/02464/CU, dated 26 January 2015.
 - The condition in dispute is No 2 which states that: *the conversion of the existing holiday let (previously detached pool house and garage) hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as Manor Farm, Hadzor Lane, Hadzor.*
 - The reason given for the condition is *to retain planning control over the use of the building hereby approved.*
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Decision

1. The appeal is dismissed.

Main Issue

2. This is whether the disputed condition is reasonable and necessary having regard to the location of the development.

Reasons

3. The appeal concerns the use of an existing residential unit which is currently ancillary to Manor Farm, as an independent unit.
4. Policies SWDP2 and SWDP4 of the South Worcestershire Development Plan¹ (the development plan) set out the development strategy and settlement hierarchy for the district, directing development to the most appropriate locations and avoiding sporadic development within the countryside. The policies refer to 'development' which is an all-inclusive term that includes conversions and changes of use as well as newly erected dwellings. Both policies are therefore relevant to the appeal and I give full weight to them.

¹ South Worcestershire Development Plan, Adopted February 2016

5. The development proposed would create an independent unit of accommodation outside a settlement boundary. Criterion C of policy SWDP2 states that development outside the identified settlements and therefore in the open countryside will be strictly controlled and will be limited to certain forms of development². None of these apply here. The proposal is therefore contrary to policy SWDP2 which in turn indicates an unsuitable location for the proposed development.
6. The appeal site is just over 1km from a bus stop. This distance is beyond the 800 metres duly acknowledged as being a reasonable walking distance and together with the route to the bus stop being via a country lane, unlit and devoid of a pavement, the bus would not be a reasonable alternative to the motor car. Similarly, the appeal site would not be within a reasonable walking or cycling distance of local shops, services or facilities. Whilst my attention is drawn to a number of public rights of way within the vicinity of the site, it is not evident that these would lead occupiers to services and facilities to meet their daily needs. Furthermore, there is nothing before me to indicate that these routes would be conducive to walking or cycling; a suggested path via a golf course does not amount to a walkable route for those carrying shopping or with pushchairs. In all, therefore, more sustainable means of travel would not be a realistic option for occupiers of the proposed dwelling, conflicting with the core land use planning principle within the National Planning Policy Framework (the Framework) of actively managing patterns of growth to make the fullest possible use of public transport, walking and cycling.
7. The use of the premises as proposed would result in someone unconnected with Manor Farm occupying the unit and with different transport needs. Whilst the number of vehicular movements is likely to be low from one dwelling, its separation from Manor Farm would generate its own independent trips to schools, shops and other services and facilities. In light of my findings above, these trips would be undertaken by the private motor vehicle, exacerbating the harm identified.
8. Paragraph 55 of the Framework refers to the need for housing in rural areas to be located where it will enhance or maintain the vitality of rural communities. Whilst the development may not appear isolated because of other forms of built development nearby, it would be isolated from local services and facilities for the reasons given above. Consequently the development would not support local amenities nearby and therefore would be contrary to paragraph 55 of the Framework.
9. The development would contribute to local housing supply and undoubtedly being ground floor accommodation, could be suitable for older persons. Equally the benefits to the economy of Council Tax revenue and local trades through property maintenance are acknowledged. However, being a proposal for one dwelling, these benefits are limited. Similarly, although the appropriateness of the development to the local environment is recognised, this is not so exceptional to be of notable weight in the range of considerations.

² Dwellings for rural workers, employment development in rural areas, rural exception sites, buildings for agriculture and forestry, replacement dwellings, house extensions, replacement buildings, renewable energy projects and development specifically permitted by other SWDP policies.

10. The appellant suggests that if planning permission is not awarded the existing residential unit would become redundant and fall into disrepair. There is nothing within the evidence before me to suggest a reduced need for the annexed accommodation which in turn could lead to deterioration through lack of use. Conversely, the building is in a good state of repair which if unoccupied, would withstand the test of time.
11. I recognise that the existing building has the facilities required for an independent unit of residential accommodation and thus the change of use would require little work. However, this does not overcome the conflict found with policies SWDP2 and SWDP4 given the location of the development and the associated harm.
12. According to the evidence presented by the appellant, the building has been in use as an independent unit in the past. The planning history presented suggests that this would have been without the benefit of planning permission which is not a *fait accompli* that the development proposed is acceptable; an unauthorised use would not have been considered against the development plan and therefore assessed for its appropriateness.
13. In all, therefore, the independent unit of residential accommodation proposed would not be in a suitable location, contrary to policies SWDP2 and SWDP4 of the development plan. For this reason the disputed condition is reasonable and necessary.

Other matters

14. The appellant questions the enforceability of condition 2. Such occupancy conditions are commonplace and meet the tests set out in paragraph 206 of the Framework. The degree to which the local planning authority can monitor and enforce such a condition is not a matter for consideration as part of a S73 appeal.
15. Appeal decision APP/J1860/W/17/3175286 allowed the change of use of a property for ancillary purposes to be used as an independent dwelling. The redundant nature of the building and its size, greater than that expected of an annexe, were material considerations in favour of the appeal. The same is not the case for the current proposal and therefore carries no favourable weight by way of precedent.
16. The appellant draws my attention to paragraph 14 of the Framework and the presumption in favour of sustainable development. Where the plan is not absent, silent or out of date, as is the case in this appeal, the presumption means approving development that accords with the development plan without delay. I have found that the development proposal would not accord with the development plan and therefore the proposal does not benefit from the presumption set out in the Framework.

Conclusion

17. The development proposed would not be in a suitable location and as such would be contrary to the policies stated. There is no weight of material considerations before me sufficient to outweigh this conflict. Having had regard to all other matters raised I conclude that the proposal would be

contrary to the development plan and therefore the appeal is dismissed and condition No 2 retained in its current form.

R Walmsley

INSPECTOR