The Planning Inspectorate

Appeal Decision

Site visit made on 30 January 2018

by R J Jackson BA MPhil DMS MRTPI MCMI

an Inspector appointed by the Secretary of State

Decision date: 13 February 2018

Appeal Ref: APP/H1840/W/17/3186884
M H F (UK) Ltd, The Nathan, Evesham Road, Inkberrow WR7 4LN

- 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 G Fernihough, M H F UK Ltd against the decision of Wychavon District Council.
- The application Ref 17/01098/CU, dated 26 May 2017, was refused by notice dated 15 August 2017.
- The development proposed is change of use of existing building to provide employee accommodation.

Decision

1. The appeal is dismissed.

Procedural matters

2. I have set out in the heading the description of the proposal as set out on the application form shorn of a reference to it being a "retrospective application" as this is not relevant for these purposes. The application, however, is for planning permission for development already carried out.

3. The Council on its decision notice referred to it providing "a residential unit". There was discussion over this in the appellant's grounds of appeal, the Council's Statement of Case, and the appellant's final comments. The final position of the appellant, as I understand, is that he is seeking a temporary permission for three years for a change of use as a House in Multiple Occupation under Class C4 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) (the UCO).

4. At the site visit I saw the layout of the rooms within the building, noting a communal sitting area, kitchen and bathroom/w.c.. I noted that each bedroom had a lock to its door. While some of the beds in the bedrooms did not appear to be made up, it is not in dispute that internal works to create partition walls had taken place prior to occupation and a material change of use had taken place.

Main Issues

5. The main issues are:

   - the relationship to the development strategy for the area;

- whether the location of the site is such that the need to travel would be minimised and the use of sustainable transport modes maximised; and
- whether the development would provide appropriate living conditions for the occupiers in terms of amenity space and refuse storage.

Reasons

Development strategy

6. There was some dispute between the parties initially as to whether the use should be considered temporary, not in the sense of only being for a time limited period, but because the residents would live there for 10 months at a time and then spend two months "back home" in Romania. However, even if this were to be the case, the physical works to convert the building have taken place and the accommodation would still be there and could still be occupied. I therefore am of the view that the change of use should be considered to be permanent.

7. The development plan for the area includes the South Worcestershire Development Plan (the DP). Policy SWDP1 of the DP sets out overarching sustainable development principles, including that the Council will take a positive approach to development that reflects the presumption in favour of sustainable development as contained in the National Planning Policy Framework (the Framework). Policy SWDP2 sets a development strategy and settlement hierarchy which from the top of the hierarchy in Worcester, goes through Urban areas to the Rural Areas in Category 1, 2 and 3 villages and finally lower category villages. Policy SWDP2 C indicates that the open countryside is defined as land beyond any development boundary.

8. The appeal site is located as part of a commercial yard some distance from any settlement along an access track and is thus in the open countryside and in an isolated location. Policy SWDP2 C indicates that in the open countryside development will be strictly controlled and restricted, among others, to dwellings for rural workers under the terms of Policy SWDP19. Policy SWDP19 indicates that proposals for permanent agricultural, horticultural, forestry and rural enterprise-related dwellings will be permitted subject to various criteria. It is also indicated that for new agricultural, horticultural, forestry or other rural enterprise a time-limited permission may be granted for a temporary dwelling, such as a mobile home or caravan, until the economic viability of the enterprise is established.

9. There is some dispute between the main parties as to whether Policy SWDP19 is applicable to the proposal. However, it seems to me that in referring to "dwellings" in the policy this goes beyond just "dwellinghouses" falling within Class C3 of the UCO, and includes all accommodation where somebody resides. For example, in relation to a temporary dwelling the policy refers to "a mobile home or caravan"; neither of these is a dwellinghouse. I am therefore satisfied that the proposal should be considered against Policy SWDP19. I do, however, consider a rural enterprise goes beyond just dwellings associated with agriculture or forestry and could include the operation on site.

10. Included within the criteria for consideration against Policy SWDP19 is that the functional and economic tests contained in Annex G to the DP are met. This applies whether the proposal is for temporary (time limited) or permanent

accommodation. The criteria are that the dwelling is necessary for animal welfare, security of animal stock or other stock, security of buildings or machinery, or the maintenance or delivery of essential processes a full-time worker is required to live on the unit; no other dwellings are available on site or in a nearby settlement that can meet the required need, and that existing accommodation will be retained.

11. The appellant asserts that the accommodation is needed principally for two reasons; firstly to provide for workers at the yard, and secondly to provide security.

12. That the accommodation means that workers are on hand does not mean that is necessary for them to live on site. As I understand, it those living in the accommodation are engineers who maintain the fleet of goods vehicles and other hire equipment on site. It is not asserted that the repair of any of this equipment is time sensitive, in the sense that any delay to get to the site would have knock on effects leading to the loss of product, in the same way as failure of heating systems could lead to loss of animals or horticulture. I therefore conclude it is not functionally necessary for the accommodation to be on site.

13. In relation to the economic sustainability of the enterprise I have not been provided with any evidence that the provision of accommodation on the appeal site is necessary for the business to be economically viable. As I understand it the business has operated from the site for some years and continues to trade profitably. The provision of accommodation on site is not part of that economic viability.

14. The second asserted benefit is that those living on site provide security, with this being evidenced by the reduction in thefts from the site since the occupancy commenced, despite there being other security measures in place previously. However, while Policy SWDP19 does include providing for security for buildings or machinery, this needs to be seen in the wider context for the need for the accommodation on site, and passing the economic test set out in Policy SWDP19.

15. While I have been provided with evidence as to accommodation that could be rented in the vicinity, I think that this can only be given limited weight. This is because such evidence is clearly a snap-shot, and any internet search will depend on the search criteria and the websites looked at. The point of a development plan is to ensure that the needs of the area are met, including for businesses in rural areas, for the plan period.

16. I therefore consider that it has not been demonstrated that there is a functional or economic need for the accommodation on site. As such the proposal would be contrary to Policy SWDP19, and in failing to meet that would also fail to comply with Policies SWDP1 and SWDP2 as set out above. It would also be contrary to paragraph 55 of the Framework which indicates that isolated new homes in the countryside should be avoided unless there are special circumstances such as the essential need for a rural worker to live permanently at or near their place of work in the countryside.

Locational accessibility

17. The Framework, in paragraph 34, notes that decisions should ensure developments that generate significant movement are located where the need

to travel will be minimised and use of sustainable transport modes can be maximised. It is noted, however, that account should be taken of policies elsewhere in the Framework, particularly in rural areas such as here. Policy SWDP4 of the DP indicates that proposals must demonstrate they offer sustainable travel choices.

18. I have been referred to a number of different documents providing information relating to pedestrians and how far they are likely to be prepared to travel by foot to get to facilities or transport nodes. None are mandatory or provide absolutes, but they do provide guideline distances. It is also common sense that the further a facility or node is from home the less likely it would be that an occupier would walk and rather would choose to use a car. That a particular distance is beyond the 'maximum' does not mean that it would never be reached by a pedestrian; it is just that it would be less likely.

19. The appeal site is located in an isolated location with the nearest category 1 village being at Inkberrow which the Council indicates is 1.4 km to the north. In addition, there is a bus stop approximately 710 m to the south of the site. There are no pavements and the roads are not lit to the site.

20. Had I concluded that there was an essential need for the accommodation I would have concluded that the distances to the nearest non-car borne transport nodes were reasonable to provide alternatives to the car for this rural area. The proposal therefore complies with Policy SWDP4 of the DP and paragraph 34 of the Framework as set out above.

Living conditions

21. The Council has published the South Worcestershire Design Guide Supplementary Planning Document - Part 1 Overarching Design Principles (the SPD). Given that this document was adopted following public consultation in line, with amongst other Policies SWDP2 and SWDP21 of the DP which requires all development to be of a high design quality, I am able to give this document significant weight.

22. The SPD includes that all residential accommodation must provide sufficient outdoor space for development to create an attractive environment in which to live and must be usable. It goes on to state that this space can be for communal use, particularly in the case of apartments, but also for individual use and is an essential requirement in enhancing the occupants' quality of life.

23. The accommodation is provided within a building which was used for purposes ancillary to the commercial use on site. It has a large canopy to the north where Heavy Goods Vehicles and other similar vehicles appear to have been worked upon and vehicles were stored at the time of my site visit. The windows on the building are barred and there are no windows in any of the bedrooms.

24. Notwithstanding this, the Council only objects to the proposal in relation to this issue due to the lack of bin storage and amenity space. The appellant makes the point that both could be provided on site and secured by planning condition. In respect of the bin stores I agree that this could be achieved. However, I am not so satisfied that appropriate provision for amenity space could be provided on site.

25. Firstly, a location has not been shown. I looked around the site and it appeared well used. Certainly there was no land in close proximity to the accommodation which was obviously available. Secondly, there was a consistent smell of fuel oil from the company's operations throughout the site which meant that any outdoor residential space would not provide a suitable environment to enhance the occupants' quality of life and would thus not represent good design.

26. As such the proposal would not provide appropriate living conditions for the occupiers. Therefore it would be contrary to Policy SWDP21 of the DP as set out above. It would also be contrary to paragraph 17 of the Framework which indicates planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants.

Other matters

27. As set out in the procedural matters paragraphs towards the beginning of this decision, the application was originally made for development already carried out, and on a permanent basis. The grounds of appeal amended this so as to be limited for only a three year period.

28. The national Planning Practice Guidance gives advice[1] on temporary uses. This states that a temporary permission may be appropriate where a trial run is needed in order to assess the effect of the development on the area or where it is expected that the planning circumstances will change in a particular way at the end of that period.

29. As the development has taken place it has been possible to assess the effect of the development on the area. While the appellant has indicated he is happy for a three year temporary permission, I have seen nothing to indicate why any permission should be time limited. For example, there is nothing in front of me to show that the case put forward by the appellant would materially change in three years' time so that the planning circumstances would change. I therefore conclude that the same considerations apply whether the matter is considered on a temporary (time limited) or permanent basis.

Conclusion

30. For the reasons given above, and taking into account all other matters raised, I conclude that the appeal should be dismissed.

R J Jackson

INSPECTOR

[1] Reference ID: 21a-014-20140306