
Appeal Decision

Site visit made on 5 February 2018

by David Wildsmith BSc(Hons) MSc CEng MICE FCIHT MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 February 2018

Appeal Ref: APP/H1840/W/17/3179864

The Barn, Oak Drive, Woodmancote, Defford, WR8 9BN

- 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 Simon Williams against the decision of Wychavon District Council.
 - The application Ref W/16/02783/PN, dated 23 November 2016, was refused by notice dated 2 February 2017.
 - The development proposed is stated on the application form as "Demolition of existing buildings, including The Barn and The Bungalow, and to construct four new homes on the site in a style reflective of an agricultural farm complex (House A: The farmhouse; House B: The Barn; House C: The Stables; and House D: The Workshop)".
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Decision

1. The appeal is dismissed.

Main issues

2. The main issues are firstly, whether the proposal would represent an acceptable form of development, having regard to its location outside of any development boundary; and secondly, its effect on protected species.

Reasons

Whether an acceptable form of development

3. The appeal site is an irregularly-shaped parcel of land extending to some 0.99 hectares. Towards its north-western corner it contains a brick-built, 2-storey residential barn conversion and a largely single-storey brick-built bungalow, with a large open grassed area to the north of these dwellings, extending the full width of the appeal site. There is also a metal-framed, open-fronted barn towards the north-eastern corner of the site, currently used for storage purposes, and some single-storey workshop/storage buildings located towards the middle of the site.
4. A further metal-framed storage shelter lies in the south-western part of the site, to the west of a long, conifer-lined access which serves the site, and there is also a small timber and brick building close to the site's north-eastern boundary. Much of the south-eastern part of the site is laid to grass. This area contains a pond, and there are 3 further ponds in relatively close proximity to the appeal site.
5. Under the appeal proposal. The 2 dwellings and the other buildings/structures on the site would be removed and replaced with a small complex of 4, 2-storey dwellings – 2 detached and 2 link-detached – along with a separate detached

double garage. As set out above, the application form states that the proposed dwellings would be in a style reflective of an agricultural farm complex.

6. The appeal site is located in the hamlet of Woodmancote, which the Council describes as a loose scattering of houses and barn conversions, located outside the development boundary of the village of Defford and therefore within the open countryside for planning purposes. This is set out in Policy SWDP 2 of the South Worcestershire Development Plan ("SWDP"), adopted in February 2016, which deals with "Development Strategy and Settlement Hierarchy". Defford is identified in the SWDP as a Category 3 village, which the Planning Officers' report explains means that it has limited access to services, facilities and public transport.
7. This policy's reasoned justification makes it plain that the implementation of SWDP 2 is essential to achieving sustainable development and the delivery of economic prosperity. It states that sites beyond development boundaries are generally less sustainable as access to local services and employment opportunities tends to be poorer, and goes on to explain that for this reason, development in the open countryside is restricted to proposals which are supportive of more specific SWDP policies. This includes Policy SWDP 18, which deals with "Replacement Dwellings in the Open Countryside" and is referred to in Part C of Policy SWDP 2.
8. Policy SWDP 18 explains that the replacement of an existing dwelling in the open countryside with another single dwelling will be permitted, where certain listed criteria are met. However, in my assessment the proposed development would be in conflict with this policy on several counts.
9. Firstly, the proposal to replace 2 existing dwellings with 4 new dwellings does not accord with the straightforward "one for one" replacement set out in the policy. Secondly, although no details have been provided of the footprint of the 2 existing dwellings, in light of the submitted "overlay" plan I have no doubt that replacing a 3-bedroom dwelling and a 4-bedroom dwelling with 4 new 4-bedroom dwellings would represent a disproportionate increase in the size of the existing residential footprint, well in excess of the 30% referred to in the policy. There is no policy support in SWDP 18 to include the footprint of the various non-residential outbuildings in this calculation, as the appellant appears to have done.
10. Thirdly, no evidence has been submitted to show that accommodation needs could not be met through the alteration, extension or refurbishment of the existing dwellings. This is not surprising as it is clearly the appellant's desire to completely redevelop this site. But this would not accord with Policy SWDP 18, or any other policy brought to my attention. Finally, I am unable to say, with any certainty, whether or not the curtilages of the replacement buildings would be greater than those of the existing dwellings, as information on this point has not been provided.
11. The appellant says very little about this conflict with Policy SWDP 18, arguing instead that the appeal site is sufficiently close to Defford to be considered as being in a reasonably sustainable location, allowing for the flexibility in promoting sustainable transport between urban and rural areas set out in the National Planning Policy Framework (the Framework"). As such the appellant argues that the appeal proposal amounts to sustainable development "taken as a whole".
12. However, as is made clear in the "Barwood" judgement¹, it is through up-to-date development plans that sustainable development will be implemented, a point

¹ East Staffordshire BC v SSCLG and Barwood Strategic Land [2016] EWHC 2973 (Admin), dated 22 November 2016

reinforced in paragraph 14 of the Framework, which explains that the presumption in favour of sustainable development should be seen as a golden thread running through both plan-making and decision-taking.

13. This paragraph goes on to make it clear that proposals that accord with the development plan should be approved without delay; and that where the development plan is absent, silent or relevant policies are out-of-date, planning permission should be granted unless (i) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or (ii) specific policies in the Framework indicate that development should be restricted.
14. The Barwood judgement further indicates that if a proposal is inconsistent with paragraph 14 of the Framework, then it cannot be a “sustainable development” as understood in the context of that paragraph. In this case the proposal does not accord with Policy SWDP 18 and the development plan is clearly not absent or silent. Nor is there any suggestion that relevant policies are out-of-date, or that part (ii) comes into play. In such circumstances, paragraph 12 of the Framework makes it plain that planning permission should be refused, unless other material considerations indicate otherwise.
15. These material considerations cannot comprise an attempt to claim that the proposed development represents sustainable development – as the appellant asserts here. That approach would disregard the fact, referred to already and set out in paragraphs 150 and 151 of the Framework, that Local Plans are the key to delivering sustainable development and have to be prepared with the objective of contributing to the achievement of sustainable development, and be consistent with the principles and policies set out in the Framework.
16. This is further reinforced by an assessment of the proposed development against the 3 dimensions of sustainable development, set out in paragraph 7 of the Framework. Whilst some economic benefits would arise from employment during the construction phase, and from subsequent Council tax revenue and increased local expenditure, these benefits would not be exclusive to this proposal, but would arise from any similarly-sized development in the District. Moreover, the appeal site does not represent land of the right type and in the right place for development, as this countryside location is at odds with the development strategy and settlement hierarchy which Policy SWDP 2 seeks to pursue.
17. In social terms, there would be some benefits as a result of the new housing. But as the Council can comfortably demonstrate a 5-year supply of deliverable housing land, there is no imperative to provide additional housing in the countryside – contrary to adopted policies – notwithstanding the Framework’s general call to local planning authorities to boost significantly the supply of housing.
18. Whilst the proposed development would be in relatively close proximity to a local farm shop (some 400m-600m away), with a public house on the A4104 a similar distance away from the appeal site, other facilities are further away. I note that there is a new village hall on the western side of Defford, about 1km away from the site, but the primary school is not within a comfortable walking distance, being some 2km away, and in general, Defford is only able to satisfy limited needs. People have to travel to the likes of Pershore to access higher order services.
19. Moreover, although I acknowledge that new residents of the proposed housing could well assist in supporting local services in Defford, there is nothing to suggest

that the proposed development would in any way be essential in this regard. Indeed I note that the Council has allocated 3 housing sites in Defford in the SWDP, to meet local needs and support local services. The fact remains that the appeal site lies well outside the development boundary of Defford, in amongst a small scattering of relatively isolated dwellings. As such, I am not persuaded that the appeal proposal would satisfy the social role of sustainable development.

20. In environmental terms, the construction of additional, unjustified dwellings in a countryside location is not acceptable. In particular, it would not assist in the move to a low-carbon economy because – despite the appellant’s assertion to the contrary – the appeal site cannot be considered to be sustainably located, and increased development on this site would, in my opinion, result in an increased dependency on and use of the private car. As such, it would be at odds with Policy SWDP 4 which, amongst other matters, states that proposals must demonstrate that the layout of development will minimise demand for travel and offer genuinely sustainable travel choices. Because of this, I do not consider that the appeal proposal would satisfy the economic role of sustainable development.
21. The Council’s reasons for refusal also allege a conflict with Policy SWDP 21, which deals with various, wide-ranging aspects of design. Whilst not all of these are directly relevant to the appeal proposal, there are many of those which are relevant, with which the proposed development would not be in conflict. For example, the proposal would not give rise to any adverse issues of neighbouring amenity, and I see no reason to doubt that the new dwellings would be of a high quality design, and appear as a traditional farm complex. There would however, be a conflict with item B(ix), as the proposal would fail to maximise opportunities for pedestrian and cycle linkages to the surrounding area and local services, for reasons set out above.
22. Drawing all the above points together, I conclude that because of the countryside location and the scale of development proposed, the appeal proposal would not represent an acceptable, sustainable form of development. I realise that this conclusion may be seen as conflicting, somewhat, with the findings of the Inspector who determined another appeal on nearby land in 2013². However, that proposal was for fewer dwellings than the current appeal scheme, and was determined in a different local planning policy context, before the adoption of the SWDP. On this issue I have determined this proposal on its own merits, and for reasons already given I consider it would be at odds with relevant SWDP policies, notably SWDP 2, SWDP 4, SWDP 18 and SWDP 21.

Protected species

23. The Council’s second reason for refusal stated that the level of ecological survey information which had been submitted was insufficient for the Council to assess the likely impact of the proposed development on protected species, in particular on great crested newts (GCN). Subsequent survey work has, however, now been undertaken and the Council has indicated that it is satisfied with the survey effort, which confirms that the on-site pond located to the south of proposed House D supports a low population of GCN.
24. Whilst this pond would not be directly affected by the proposed development, it does lie very close to proposed construction work and, as a result, I share the Council’s view that there would be a loss of terrestrial habitat and the risk of

² Appeal Ref: APP/H1840/A/13/2195896 at Woodbine Cottage, Woodmancote, Defford, dated 2 August 2013

significant disturbance and injury to individual newts. As such, it seems likely that the development would lead to an offence under the Conservation of Habitats and Species Regulations 2010, and would therefore require a licence from Natural England (NE) before any development could proceed.

25. I have seen no specific comments from NE but, in any case, it is not for me to consider the likelihood of NE granting a licence. However, before any licence could be granted an assessment against the 3 derogation tests referred to by the Council would have to be undertaken. In the particular circumstances of this case, it does seem to me that it would be possible to draw up a satisfactory and appropriate ecological mitigation and enhancement scheme, which could be secured through a planning condition.
26. This would satisfy the third test, as it would safeguard the GCN population and ensure that the proposed development would contribute to the conservation and enhancement of biodiversity within the site and the wider area. As a result, the proposed development would not be at odds with Policy SWDP 22, which deals with Biodiversity and Geodiversity.
27. However, as I have found against this proposal on the first main issue, I do not consider that the proposed development could reasonably be considered as satisfying the first or second tests. There is no over-riding public interest which would be served by this proposal, and no clear justification for the amount of development proposed through this appeal. My conclusion on this second issue, therefore, is that although a satisfactory mitigation and enhancement scheme could be secured by condition, this would not serve to make this proposal acceptable in this regard, for the reasons given above.

Other matters

28. The Council does not dispute the appellant's contention that the appeal site should be considered to be previously developed land, and that one of the Framework's core planning principles is to encourage the effective use of land by reusing land that has been previously developed, provided that it is not of high environmental value. Whilst I accept that this is a point in the appeal proposal's favour, I am not persuaded that it is of anything like sufficient weight to outweigh the policy conflict and harm I have identified above.

Summary and overall conclusion

29. Drawing all the above points together, my overall conclusion is that this proposal would not represent sustainable development and would not be sustainably located. It would be in clear conflict with the SWDP policies to which I have already referred, and no material considerations of sufficient weight have been put forward to cause me to make a decision other than in accordance with the development plan. The appeal is therefore dismissed. I have had regard to all other matters raised, but they are not sufficient to outweigh the considerations which have led me to this conclusion.

David Wildsmith

INSPECTOR