The Planning Inspectorate

Appeal Decision

Site visit made on 9 May 2018

by G D Grindey MSc MRTPI Tech. Cert. Arb

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

Decision date: 18 May 2018

Appeal Ref: APP/H1840/W/18/3193640
Greenacres, Kemerton Road, Westmancote, Tewksbury GL20 7EN.

- 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 and Mrs D Firkins against the decision of Wychavon District Council.
- The application Ref 17/00925/FUL, dated 4 May 2017, was refused by notice dated 20 July 2017.
- The development proposed is subdivision of single dwelling into 2 x dwellings.

Decision

1. The appeal is dismissed.

Main Issues

2. From my inspection of the site and surroundings and from the representations made I find that the appeal revolves around 1 main issue. This is whether the location is a suitable place for an additional dwelling, having regard to up to date policies for the location of dwellings

Reasons

3. The Council has set out, in their reasons for refusal, their concerns about the creation of an additional dwelling in a location away from a main urban area and where access to services is limited.

4. My starting point must be the development plan, in this case the South Worcestershire Development Plan (SWDP) adopted in 2016 and the Bredon Neighbourhood Plan, 2017. Policy SWDP2 seeks to steer residential development into a hierarchy of settlements, broadly based on the level of service provision and their capacity to support new housing. Lower Westmancote is in the 4B category with a low/medium level of public transport provision and low services/facility provision.

5. Furthermore, the appeal site is outside of any settlement boundary, in an area defined in the SWDP as open countryside for planning purposes. In the open countryside the creation of new dwellings is strictly controlled (SWDP2C). The appellants comment that "Bredon, Kemerton and the other local settlements mentioned have defined settlement boundaries. Policy SWDP2 allows for infill development within them. If these villages are accepted, as they are, as sustainable locations for new housing, then it must follow that the appeal site is not an unsustainable location…." I do not agree.

6. The SWDP has been the subject of extensive public consultation and debate during its preparation. It is up to date and adopted. The limits of the various settlements mentioned were decided during that process and I do not think that the defined boundaries should be ignored during the course of an appeal on an arbitrary basis. The fact of the matter is that the appeal site lies outside any settlement boundary where development may be permitted, except in certain specified circumstances none of which apply here.

7. I do not accept that the development plan is "silent" in that it does not contain a policy relevant to the appeal application[1] and that the policies only cover the erection of new dwellings. The relevant policy refers repeatedly to "development". Section 55 of the Act defines the meaning of 'development' and clarifies that the use as two or more separate dwelling houses of any building previously used as a single dwelling involves a change of use (and hence development). It is clear that the application would result in two households where, formerly, there was one. I give this submission no weight; paragraph 14 of the National Planning Policy Framework (NPPF) is not engaged.

8. The grounds of appeal somewhat laboriously dissect the terms 'isolated' and previously developed land' and reference is made to various judgements which I have read with interest. However, read in a straightforward way, I find that the reasons for refusal focus on the location of the appeal site outside any settlement boundary as defined in the up-to-date development plan. I do not find the decision on the appeal turns on the application of the terms to the site.

9. The creation of a separate unit of accommodation here is in conflict with the policy of the SWDP. This weighs heavily against the scheme. The grounds of appeal argue that there is no harm, but determining appeals on a 'one-off' basis, and disregarding the development plan would undermine the plan-led system and cause a loss of confidence in it.

10. The appellant argues that the additional unit would add to the supply of housing; however there is agreement, between the parties, that the Council can demonstrate a 5 year supply of deliverable housing sites. An additional single unit would not increase supply to any great extent; it is of modest benefit only.

11. I have also examined the other appeal cases put before me. It is rarely that direct comparisons can be made between different cases. In all of them circumstances appeared to me to be wholly different to the appeal case. In the Badsey case there was a fall-back position, whereby the construction of 22 dwellings had commenced already on the appeal site. The Inspector found this to be an 'overriding'[2] material consideration. Similarly the Middle Littleton site[3] had extant permissions for an additional 3 dwellings on the site. I do not find these comparable to any fall-back position with the present case, such as use as a house in multiple occupation[4], even if I had any evidence that this is a likely rather than theoretical possibility.

12. The Whittington appeal site[5] abutted the edge of a settlement boundary in the 'middle section' of the village and was a 'short walk' from a church, school, pub

[1] Grounds of appeal, paragraph 2.17 onwards
[2] APP/H1840/W/17/3166467
[3] APP/H1840/W/17/3178753
[4] grounds of appeal, paragraphs 2.14 & 2.16
[5] APP/H1840/W/17/3180996

and bus stop. Again, this differs from the circumstances of the case before me, where the nearest facilities are to be found in another village, Brendon, which is located a longish walk to the west along an unlit and fairly fast-trafficked road with only a narrow pedestrian path. A regular walk along this route to facilities would not be convenient or pleasant in my view. Lastly, the Durham case is not directly comparable since the Council could not demonstrate a 5 year housing land supply.

13. I can readily understand and sympathise with the appellants' wish to remain in a dwelling that they have lived in for many years. However, the subdivision of the dwelling is a preferred option, rather than a necessity. Personal circumstances can only rarely outweigh policy based decisions.

14. *Planning balance and conclusions.* There is only a minor benefit of an additional unit of accommodation. However, section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications be determined in accordance with the development plan unless material considerations indicate otherwise.

15. The scheme would therefore conflict with the NPPF which states that it does not change the statutory status of the development plan as the starting point for decision making. I consider that the creation of an additional dwelling here would not accord with the above mentioned policy of the up-to-date SWDP and I have seen no other material considerations which would provide an overriding reason to disregard the development plan.

16. I have considered all other matters raised during the appeal, including some local support for the additional dwelling but find nothing that changes the balance of my conclusions on this appeal.

17. I therefore dismiss the appeal.

Gyllian D Grindey

Inspector