The Planning Inspectorate

Appeal Decision

Site visit made on 5 June 2018

by Andrew Dawe BSc(Hons) MSc MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd July 2018

Appeal Ref: APP/J1860/W/18/3194394
Mathon House, Jennett Tree Lane, Callow End WR2 4UA

- 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 Dale Firkins of Solace Homes Limited against the decision of Malvern Hills District Council.
- The application Ref 17/01615/FUL, dated 12 October 2017, was refused by notice dated 2 January 2018.
- The development proposed is change of use from C3 to C2 and the creation of a new vehicular access and associated hard and soft landscaping works.

Decision

1. The appeal is allowed and planning permission is granted for change of use from C3 to C2 and the creation of a new vehicular access and associated hard and soft landscaping works at Mathon House, Jennett Tree Lane, Callow End WR2 4UA in accordance with the terms of the application, Ref 17/01615/FUL, dated 12 October 2017, subject to the conditions in the attached annex.

Procedural Matter

2. The Council, in its decision notice refers to the Worcestershire County Council Landscape Character Assessment supplementary guidance (the WCCLCA). I have afforded some weight to that document due to its role in supporting the relevant development plan policy.

Main Issues

3. The main issues are:

   i) the effect of the proposed development on the character and appearance of the surrounding area;

   ii) whether or not the proposal would be in a suitable location for the use concerned, having regard to the development plan objectives relating to development strategy, and national policy.

Reasons

Character and appearance

4. The original roadside hedge has been translocated, and new hedge plants planted, back from the road edge as shown on the submitted plans either side of the new access that has already been created. New young trees have also

been planted in a row behind that new hedge line. The existing access to the property currently remains in place.

5. The site is at the edge of an area described as principal timbered farmlands in the WCCLCA, which has a small scale, wooded, agricultural appearance characterised by filtered views through densely scattered hedgerow trees. One of the primary characteristics relates to hedgerow boundaries to fields. Jennett Tree Lane, particularly before reaching Deblin's Green to the south-west, is generally characterised by hedgerows close to the edge of the highway. However, the nature of the hedgerow varies to some degree, particularly further to the west of the site, including in relation to the front boundaries of the various residential properties fronting it. Further along, the character also changes where there is woodland on one side and hedgerow vegetation set away from the road on the other.

6. The set back of the new hedge line on the site does break the distinct alignment of the hedgerow on that side of the road on the approach from the east. However, it is seen in the context of that existing degree of variation in the nature of roadside hedgerows along the road. It is also seen in the context of the distinctly different roadside edge provided by the high brick wall relating to Stanbrook Abbey on the opposite side of the road which opens out to a significant access splay opposite the eastern end of the site. Furthermore, together with the closure of the existing access and replacement with hedgerow, the scheme would retain a strong sense of enclosure once the planting matures, albeit set back from the road. Although it has encroached upon agricultural land, that land has a different character, relating to the adjacent retained orchard, compared with those more open fields opposite and on the approach from the east on the northern side of the road.

7. The new access drive and gate is clearly seen from the road, but to a large extent that is due to the currently low height of the translocated hedge and associated very immature new plants. Once matured, the extent to which the access would be clearly visible would be likely to relate just to the relatively short section between the road and hedge. There would also be no net increase in vehicle access openings on to the road with the existing access closed up as proposed.

8. For the above reasons, subject to the submission of further landscaping details and securing measures to ensure that the hedge becomes established, which could be secured by condition, the relocated hedge position would be unlikely to cause harm to the wider landscape as a whole, regardless as to whether or not it is considered to be a valued landscape, or to that relating to the more immediate vicinity of the site. That would be particularly given the intention to provide a high quality hedgerow consisting of native species, and additional new or enhanced hedgerow on the boundary of the property's front and rear garden. Despite concerns about the existing quality and instability of the wide verge in front of the translocated hedge, it is proposed to be appropriately planted to ensure a visually acceptable site frontage, which would also be likely to maintain its stability.

9. For the above reasons, I conclude on this issue that the proposed development would not cause unacceptable harm to the character and appearance of the surrounding area. As such, in respect of this issue, it would accord with policy SWDP 25 of the South Worcestershire Development Plan (the SWDP) and the

WCCLCA which together, amongst other things, require that development proposals and their associated landscaping schemes take into account the latest Landscape Character Assessment and its guidelines; that they are appropriate to, and integrate with, the character of the landscape setting; and conserve, and where appropriate, enhance the primary characteristics defined in character assessments, and have taken any available opportunity to enhance the landscape. In respect of this issue, it would also accord with paragraphs 17 and 109 of the National Planning Policy Framework (the Framework) which, respectively state that planning should, amongst other things, take account of the different roles and character of different areas, recognising the intrinsic character and beauty of the countryside, and contribute to and enhance the natural and local environment.

Suitability of location

10. Although those works in relation to the new site access and repositioned hedgerow have taken place, the existing dwelling is currently vacant and the proposed use has not commenced. The site is located outside of any defined settlement boundaries and as such located within the open countryside.

11. Policy SWDP 2 of the SWDP relates to development strategy and settlement hierarchy and states, amongst other things, the principle of safeguarding and wherever possible enhancing the open countryside and of focussing most development on the urban areas, where both housing needs and accessibility to lower-cost public services are greatest. It goes on to state that development in the open countryside, defined as land beyond any settlement boundary, will be strictly controlled and restricted to specific categories. Based on the submitted evidence, none of those categories are applicable in this case although the proposal would continue an already established residential function of the site, albeit under a different use class due to the nature of care that would be provided.

12. The property is not ideally located in terms of access by foot to Callow End and its associated convenience shop and other services, including the school and bus stops, with no intervening footways or lighting along Jennett Tree Lane. There is nevertheless some degree of accessibility by foot into the village via the footpath across the field opposite the site and the quiet cul-de-sac lane beyond. Furthermore, in terms of that proposed residential function, the proposal would not be significantly different to the existing lawful use of the property in respect of this factor.

13. The proposal would be different to a family dwelling use under use class C3 in terms of there being staff on the site and the associated additional comings and goings and traffic movements in the vicinity. In that respect, it would not be in location whereby access to and from the site would be likely to be by means other than motorised transport. As such there would be some conflict with policy SWDP 4 of the SWDP which amongst other things relates to minimising demand for travel and ensuring that genuinely sustainable travel choices are offered. I have also had regard to bullet point 11 of paragraph 17 of the Framework which states that planning should actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling. However, such heavy reliance on that mode of transport would only relate to a relatively small operation and therefore unlikely to represent a significant increase in movements locally.

14. For the above reasons, the proposal would be in some conflict with policies SWDP 2 and SWDP 4 of the SWDP and bullet point 11 of paragraph 17 of the Framework, having regard to the suitability of the location for the use concerned. However, I have also found that there are factors which would lessen the degree to which that conflict would be likely to cause harm, due to the residential nature of the use and some degree of accessibility by foot to the village, and also given my findings in respect of the first main issue. I will consider this further in the planning balance.

Other matters

15. I have had special regard to the statutory duty to pay special attention to the desirability of preserving the setting of the nearby Grade II listed building (the LB) comprising Stanbrook Abbey. The LB is significantly separated from the site, albeit that its vehicular access is on the opposite side of the road. Nevertheless, for the same reasons relating to the first main issue, and given the high degree of enclosure of the LB and its grounds, I consider that the proposal would preserve the setting of the LB.

16. I have had regard to concerns raised about security and safety within the locality, and the welfare of horses in the area and the safety of children were they to enter stables. However, I have received no substantive evidence to indicate how the occupiers of the proposal would be able to gain access to any such horses. There is also no substantive basis for me to consider that those occupiers would be any more likely to have harmful interaction with horses or take part in anti-social, trespassing or other criminal behaviour than anyone else who could currently live at the property. Furthermore, there is no substantive reason to consider that the safety of children living at the site would be compromised in terms accessibility to the highway, especially with the boundary treatment in place as shown on the submitted site plan.

17. I have had regard to concerns about vehicle speeds having increased along that adjacent stretch of road to the site due to the more open roadside. However, no substantive evidence has been submitted to demonstrate this and the alignment of that stretch of road is such that the degree of forward visibility is unlikely to have significantly changed from when the hedge was closer to the road.

18. In relation to concerns relating to any future enlargement of the building to provide additional accommodation, any such proposals requiring planning permission would have to be considered and determined on their merits as I have done with this appeal scheme.

19. Some concern has been expressed about the impact of the proposals on protected species on the site and neighbouring orchard. However, from the submitted evidence, I have no substantive basis to consider that any such species have been affected by the translocation of the hedge and other related works.

Planning balance

20. The proposal would be in some conflict with policies SWDP 2 and SWDP 4 of the SWDP and bullet point 11 of paragraph 17 of the Framework, having regard to the suitability of the location for the use concerned.

21. However, I have also found that there are factors which would lessen the degree to which that conflict would be likely to cause harm, due to the residential nature of the use and some degree of accessibility by foot to the village. Additionally, I have found that the proposed development would not cause unacceptable harm to the character and appearance of the surrounding area. I have also had regard to the benefit of providing children's home accommodation, including in a rural location away from the distractions of urban living, for which some evidence of need has been demonstrated in the submissions. These factors would therefore be sufficient to outweigh that degree of conflict with the relevant SWDP and Framework policies. It would therefore be a sustainable form of development.

Conditions

22. The Council has suggested seven conditions that it considers would be appropriate were I minded to allow the appeal. I have considered these in the light of advice in the Government's Planning Practice Guidance and amended the some of the wording.

23. The standard time condition is required in this case, and for the avoidance of doubt and in the interests of proper planning, a condition requiring that the development is carried out in accordance with the approved plans is also required.

24. In the interests of highway safety, conditions to secure the provision and retention of the proposed access, turning area and parking facilities and the required visibility splays would be necessary as would one to ensure the appropriate permanent closure of the existing site access.

25. In the interests of the character and appearance of the surrounding area, conditions would be necessary to secure details of any proposed external lighting; and the submission of a detailed landscaping scheme, notwithstanding the planting already carried out, given the limited amount of information shown on the submitted proposed site plan, together with timescales for the planting, a requirement to adhere with a schedule of maintenance, and provision for replacing any trees or plants, including in relation to the translocated hedge, that may die, are removed or become seriously damaged or diseased.

Conclusion

26. For the above reasons, and having taken account of all other matters raised, I conclude that the appeal should be allowed.

Andrew Dawe

INSPECTOR

ANNEX - Conditions

1. The development hereby permitted shall begin not later than 3 years from the date of this decision.

2. Unless where required or allowed by other conditions attached to this permission, the development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan, drawing 004, and drawing 002 Rev A.

3. The development hereby permitted shall not be brought into use until the access, turning area and parking facilities shown on the approved plans have been provided. These areas shall thereafter be retained and kept available for those uses at all times.

4. No part of the development hereby permitted shall be occupied until visibility splays have been provided from a point 0.6 metres above ground level at the centre of the access to the application site and 2.4 metres back from the near side edge of the adjoining carriageway, (measured perpendicularly), for a distance of 56.1 metres to the east and 80 metres to the west measured along the nearside edge of the adjoining carriageway. The splays shall at all times be maintained free of obstruction exceeding a height of 0.6 metres above the adjacent carriageway level.

5. The development hereby permitted shall not be first brought into use until the existing vehicular / pedestrian access has been permanently closed in accordance with details that shall have first been submitted to and approved in writing by the local planning authority.

6. Before the installation of any external lighting, details of that lighting shall be submitted to and approved in writing by the local planning authority. The details shall include times when the external lighting will not be switched on. Only external lighting in accordance with approved details shall be provided on the application site. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting that Order with or without modification) there shall be no other external lighting provided on the application site.

7. Notwithstanding the submitted plans and planting already carried out on the site, before the first use/occupation of the development hereby permitted a detailed scheme of landscaping shall be submitted to and approved in writing by the Local Planning Authority. The landscaping scheme shall include:

   (i) a plan(s) showing the detailed layout of the proposed tree, hedge and shrub planting and grass areas, to include new hedgerow in the locations as shown on the proposed site plan;
   (ii) a schedule of proposed planting indicating species, sizes at time of planting and numbers/densities of plants;
   (iii) a written specification outlining cultivation and other operations associated with plant and grass establishment;

(iv) a schedule of maintenance, including watering and the control of competitive weed growth, for a minimum period of five years from first planting.

All planting and seeding/turfing shall be carried out in accordance with the approved details in the first planting and seeding/turfing seasons following the completion or first occupation/use of the development, whichever is the sooner. The planting shall be maintained in accordance with the approved schedule of maintenance. Any trees or plants, including any relating to the translocated hedge, which within a period of five years from the completion of the planting, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.