



Appeal Decision

Site visit made on 17 July 2018

by D Boffin BSc (Hons) DipTP MRTPI Dip Bldg Cons (RICS) IHBC

an Inspector appointed by the Secretary of State

Decision date: 29th August 2018

Appeal Ref: APP/H1840/W/18/3200330

Land at Rear of 2 Caldewell Cottages, Drakes Broughton, Worcester, Worcestershire WR10 2AG

- 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 Miss Maureen Williams against the decision of Wychavon District Council.
 - The application Ref 17/01441/FUL, dated 24 July 2017, was refused by notice dated 27 October 2017.
 - The development proposed is described as "*conversion of existing stable block into a one-bedroom retirement dwelling for the applicant to manage her horses freeing up an existing 3/4 bedroom semi-detached family house for rental or sale to a family*".
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant has submitted speed and baseline bat surveys that have been carried out subsequent to the refusal of the planning application. The Council has confirmed, based on the submitted speed survey, that even though there would be a shortfall in the visibility splay the Highway Authority would not object to the proposal. The submitted bat survey found no evidence of bats or bat droppings and that the building by its design and use has a low suitability for roosting bats. I consider that based on this evidence that these matters are not fundamental issues in this case and could be mitigated by planning condition if I was minded to allow the appeal.
3. The revised National Planning Policy Framework (the Framework) has been published since the appeal was lodged. Both main parties were given the opportunity to comment on any relevant implications for the appeal. I have had regard to the response from the appellant and the Framework in reaching my decision.

Main Issues

4. In light of the above I consider that the main issue is whether the site would be an appropriate location for an additional dwelling having regard to the policies of the South Worcestershire Development Plan (SWDP), the Drakes Broughton and Wadborough with Pirton Neighbourhood Plan (NP) and the Framework in relation to housing in rural areas and any other material considerations.

Reasons

5. The appeal site comprises an existing stable block, associated structures and yard and an access track to the B4084. To the east of the stables is a pair of semi-detached cottages one of which the appellant presently lives in. To the west is a ménage area. Surrounding the appeal site, cottages and ménage is woodland and fields/paddocks. The proposal would involve the conversion and alteration of the existing stable block to form a dwelling.
6. The development plan includes the South Worcestershire Development Plan (DP) adopted February 2016. DP Policy SWDP 1 sets out the general presumption in favour of sustainable development. DP Policy SWDP 2 is a key policy of the development plan setting out the development strategy and settlement hierarchy. There is no dispute between the parties that the site is not within the development boundary of Drakes Broughton. Sites outside of development boundaries are to be considered as open countryside, for the purposes of DP Policy SWDP 2, where development will be strictly controlled. That policy aims to focus most development on urban areas, where both housing needs and accessibility to lower-cost public services are greatest. It also sets out a settlement hierarchy by which windfall developments are to be assessed.
7. The development would not fall within one of the categories of development allowed by Part C of DP Policy SWDP 2 and as such it would be in conflict with this policy. NP Policy DBWP 3, reflects DP Policy SWDP 2, and states, amongst other things, that proposals for housing development outside the development boundaries for Drakes Broughton and Wadborough, defined on Maps 1 and 2 respectively, and additional to the commitments identified on Map 1, will only be supported where they meet one of a number of criteria.
8. The stable block had horses within it at the time of my site visit. As such, it is not a redundant or disused building and I have no evidence before me to indicate that the proposal would meet any of the other criteria of NP Policy DBWP 3. It follows that the proposal would also be in conflict with this policy.
9. The delineation of a settlement's development boundary is a matter which would normally be considered when a new development plan is prepared, in the light of any representations made through consultation exercises. It is clear from the background/justification, within the NP related to Policy DBWP 3 and the associated policies, that planning commitments relating to a number of sites were taken into account when the NP was made. The NP also decided to retain the development boundaries as identified in the SWDP.
10. The NP states that Drakes Broughton is a Category 2 settlement with a number of services and facilities. DP Policy SWDP 4 states, amongst other matters, that "*proposals must demonstrate that they offer genuinely sustainable transport choices*". Paragraph 103 of the Framework recognises that opportunities to maximise sustainable transport solutions will vary from urban to rural areas.
11. The site is within easy walking distance of the nearest bus stop and a public footpath into Drakes Broughton. The B4084 only has a pavement on one side and is not lit in the vicinity of the appeal site. Furthermore, it does appear to be a relatively busy road. However, I observed that with care it is possible to cross over it and that there is a wide grass verge on the opposite side to that

with the pavement. The verge allows refuge for pedestrians whilst walking along the B4084 and the distances to the services and facilities in Drakes Broughton are relatively short. I acknowledge that the amount of traffic and the lack of lighting would not make it an attractive environment for walking after dark nor for cycling especially for more vulnerable groups of road users such as children. Therefore, I consider that future occupiers would be for some of the time and for convenience reasons likely to opt to rely on the use of private cars in order to access facilities and services in the wider area.

12. Nonetheless, there would be a choice of transport modes for future residents and in relation to a rural area the site is within a relatively accessible location. As such, I consider that the proposal would comply with DP Policy SWDP 4. However, the same circumstances would arise in relation to many sites which are close to the development boundaries of this and other villages at the same level within the settlement hierarchy. This factor simply indicates that the proposal would not cause significant harm in this respect.
13. Paragraph 78 of the Framework sets out that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. However, the contribution one additional dwelling and its occupants would make to the vitality of the rural community would be small. Moreover, there is no evidence to suggest that the existing services and facilities within the settlement are under threat.
14. Paragraph 79 of the Framework states that local planning authorities should avoid the development of isolated homes in the countryside unless one or more of certain circumstances apply. This paragraph is similar to paragraph 55 of the previous version of the Framework. The judge in a recent judgement¹ has stated that paragraph 55 of the Framework *'cannot be read as a policy against development in settlements without facilities and services since it expressly recognises that development in a small village may enhance and maintain services in a neighbouring village, as people travel to use them'*.
15. The judge also stated that the immediate context was the distinction in paragraph 55 *'between "rural communities", "settlements" and "villages" on the one hand, and "the countryside" on the other. This suggests that "isolated homes in the countryside" are not in communities and settlements and so the distinction between the two is primarily spatial/physical'*. The appeal site is close to the pair of semi-detached cottages that are adjacent to it and a public house, plant nursery and a commercial use that are relatively close to the development boundary of the settlement. Consequently, I do not consider that the proposal would result in the development of an isolated dwelling.
16. The site, as an existing stable within a site utilised for equestrian purposes, can be treated as previously developed land and this is a benefit of the proposal. The appellant has referred to DP Policy SWDP 13 in this respect but I have not been provided with a copy of it and as such I give that policy little weight.
17. Reference is made to the Housing White Paper² and the revised Framework includes a number of the proposals set out in that white paper. The proposal would involve the development of a small site and I have no reason to disagree

¹ Braintree District Council v Secretary of State for Communities and Local Government, Greyread Limited & Granville Developments Limited [2017] EWHC 2743 (Admin)

² Fixing Our Broken Housing Market, Department of Communities and Local Government, February 2017

with the appellant that it could be developed relatively quickly. The appellant has stated a clear intention to occupy the appeal proposal as her home and submits that the dwelling has been designed to enable her to continue to breed and show Connemara ponies and keep dogs, cats and chickens and live at the property into old age. She considers that this would allow her existing dwelling to be utilised as a family home. The creation of an additional dwelling on a small site and the potential utilisation of the existing dwelling as a family home would have some modest social benefits.

18. The construction works and occupation of the proposal would have modest economic benefits. In environmental terms I have found that future occupiers would tend to rely on travel by the private car but the site would use previously developed land. The evidence indicates that the dwelling would be designed to be energy efficient. As such, I consider that the proposal would be neutral in environmental terms.
19. I note that the Council did not object to the proposal in relation to landscape and visual impact, drainage, design and neighbouring occupier's amenity. However, a lack of harm in these respects is a neutral consideration that does not weigh for or against the proposal.
20. I can understand the appellant's desire to remain on the site where she has lived for some time and as stated above, the existing house could be utilised as a family home. However, there is little evidence before me as to why that dwelling cannot continue to provide suitable living accommodation for the appellant. Furthermore, planning permission runs with the land and it is rarely appropriate to provide otherwise. Therefore, I do not consider that in this case there are exceptional circumstances to justify a personal permission given the permanence of the proposed dwelling.

Other matters

21. The Council have referred to 3 recent appeal decisions³ and I acknowledge that these sites appear to be some distance from the appeal site and that the circumstances of the cases are not directly comparable to the proposal before me. Whilst, there may be parallels in relation to the application of DP Policy SWDP 2 I am required to determine the appeal on the basis of its individual merits.
22. The Council's Officer Report states that the nearest listed building is grade II and located approximately 150 metres to the north-west of the appeal site. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, (the Act) requires the decision maker, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest.
23. I have very little evidence before me in relation to the special interest/significance of this building. However, based on my observations I consider that the significance of this building appears to be mainly derived from its age, historic fabric, form and architectural features. There is no indication that there is or was a functional link or intervisibility between the appeal site and the listed building. As such, I consider that the proposal would have a

³ APP/H1840/W/18/3193640, APP/H1840/W/17/3188221 and APP/H1840/W/17/3192423

neutral impact on the special interest and significance of the listed building and the expectations of the Act would be met.

24. Reference has been made by both parties to a number of court judgements and I have had regard to these documents. I consider that the judgements support the approach taken in this decision.

Overall Balance and Conclusion

25. The Council have stated that they can demonstrate a 5 year supply of housing land (HLS) and this is not specifically disputed by the appellant. I have found that the proposal would conflict with Part C of DP Policy SWDP 2 and it would also conflict with NP Policy DBWP 3. These policies pre-date the publication of the revised Framework. However, paragraph 213 of the Framework states that existing policies should not be considered out-of-date simply because they were adopted or made prior the publication of the revised Framework. Taking into account this paragraph I consider that these policies are broadly consistent with the revised Framework. Consequently, the conflict with these policies has significant weight.
26. Moreover, paragraph 15 of the Framework states that the planning system should be genuinely plan-led. The conflict with the development strategy leads me to conclude that the proposal would conflict with the development plan. In accordance with S38(6) of the Planning and Compulsory Purchase Act 2004, if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.
27. Taking into account all of the above, whilst there would be modest benefits associated with the proposal I consider that there are no material considerations of such weight to lead me to the conclusion that the proposal should be determined other than in accordance with the development plan. Having regard to all other matters raised therefore, I conclude that the appeal should be dismissed.

D. Boffin

INSPECTOR