The Planning Inspectorate

Appeal Decision

Site visit made on 26 June 2018

by B Bowker Mplan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 September 2018

Appeal Ref: APP/H1840/W/18/3197386
Hill Top Farm, Newland Lane, Newland, Driotwich Spa WR9 7JH

- 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 B Rutter against the decision of Wychavon District Council.
- The application Ref 17/01689/OUT, dated 14 August 2017, was refused by notice dated 18 August 2017.
- The development proposed is outline application with all matters reserved apart from access for the construction of 4no. dwellings. Resubmission of application W/16/01197/OU.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposal as submitted is for outline planning permission with all matters reserved apart from access. Appearance, landscaping, layout and scale are reserved for later consideration and the appeal has been determined on this basis, with the layout plan treated as illustrative.

3. During the appeal, the revised version of the National Planning Policy Framework (the Framework) was published. Comments were sought from the parties regarding the effect of this matter on the appeal proposal. The appeal has been determined accordingly.

Main Issues

4. The main issues are:

   - Whether the proposal would be in a suitable location having regard to development plan policy and its effect on the character and appearance of the surrounding area; and,

   - Whether sufficient information has been submitted in respect of biodiversity.

Reasons

Whether suitable form of development

5. The appeal site comprises a grass area of land surrounded by residential use to the east and west, a large allocated residential development to the further north and open countryside to the south. The site abuts the defined development boundary on two sides and Policy SWDP 2 of the South

Worcestershire Development Plan (SWDP) seeks to focus most development on the urban areas. With reference to the reasoned justification to Policy SWDP 2, the appellant sets out that the site is not isolated in a rural location and has excellent non-private vehicular access to key services and facilities at the strategic residential allocation and Droitwich. As such the appellant considers that the proposal would accord with Policy SWDP 4.

6. However, for planning purposes the site is beyond the development boundary and as such is within the open countryside as defined under Policy SWDP 2. SWDP Policy 2 criterion C sets out that development in the open countryside will be strictly controlled and will be limited to certain exceptions. The proposal would not fall into any of the listed exceptions and nor does the appellant contend that this is the case. Consequently the proposal would be contrary to Policy SWDP 2 criterion C). Whilst reference is made to the exception at Policy SWDP 2 relating to live/work units, the proposal has been submitted as residential development.

7. Policy SWDP 2 sets out that the development strategy and site allocations in the SWDP are based on a number of principles, which includes to safeguard and (wherever possible) enhance the open countryside. The Council refer to Policy SWDP 25 which relates to landscape character. However, no reference is made by the Council to the latest Landscape Character Assessment. This aside, criterion ii) of the policy is of some relevance which seeks to ensure that development is appropriate to, and integrates with, the character of the landscape setting. In addition, paragraph 170 b) of the Framework is also relevant which seeks to ensure that decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside.

8. During my site visit, I saw the housing development to the north and its associated access onto Newland Lane. I also observed that this section of Newland Lane includes a number of openings and that the site is located on the same side of the highway as existing residential development. Despite these factors, I saw that this section of Newland Lane, bounded by hedgerow, comprising dwellings set in spacious plots with open fields to the south, retains a rural character. Although visible from the adjoining highway and larger in scale, the separation distance between Newland Lane and the housing development to the north ensures that the rural character of the site vicinity remains. The roadside hedgerow and openness of the site contributes positively to the rural character predominant at this section of highway.

9. It is put to me that the visibility splay would be formed where there is no existing planting. However, access to the site would necessitate the removal of a section of hedgerow which would allow views of the proposed dwellings. Whilst the site is not located in an area subject to a landscape designation or within a valued landscape, the removal of this section of hedgerow and introduction of built form would unacceptably harm the positive contribution the site makes to the rural character along this section of Newland Lane.

10. Whilst layout and landscape details are reserved matters, taking into account the number of dwellings and vehicular access involved, I am not convinced that additional hedgerow planting, open space within the site or landscaping details could prevent the harm identified to the rural character of the site vicinity. In reaching this view, I note that the Council raise no concern regarding the

indicative scale and layout of the dwellings proposed. Furthermore, I understand that the development would be built by a small local house builder, and I agree that the development at Elm Cottage is of a high quality finish, which I saw during my site visit. However, despite these factors, the harm identified to the rural character of this section of Newlands Lane would remain. As such the proposal would unacceptably harm the intrinsic character and beauty of the countryside predominant within the site vicinity.

11. Appeal decisions[1] are cited by the appellant in support of the proposal in the light of Policy SWDP 2. However, unlike this appeal, the respective Inspectors identified no harm to the character and appearance of the area and I note that the sites included existing buildings. In addition, no harm to the character and appearance of the area was identified in respect of the appeals[2] at Broadwas and Pendock. On this basis these case are not comparable with the appeal before me. As limited details are before me in relation to infill development approved along Copcut Lane as briefly referred to by the appellant, I cannot make a meaningful comparison with the appeal proposal.

12. The appellant also refers to development at The Ford House, Pershore, recommended for approval by the Council (subject to a legal agreement) which departed from Policy SWDP 2C. However the parties disagree on the site allocation process for the site at The Ford House, for the appeal site and other parcels of land along Newland Lane. In any event, unlike the appeal, the Council considered that The Ford House site development would not harm in terms of character or appearance. Moreover I must determine the appeal on its own individual merits.

13. Therefore the proposal would not be in a suitable location having regard to development plan policy and its effect on the character and appearance of the surrounding area. Consequently the proposal would be contrary to policies SWDP 1, 2, and 25 and paragraph 170b) of the Framework which are of most relevance to this matter. The relevant requirements of these policies are set out above.

Biodiversity

14. The Council consider that a survey is required to fully assess the proposal's impact on biodiversity, to ensure that adequate mitigation or compensation can be provided. The Council identify that the main feature of biodiversity value at the site is the hedgerow. The proposed vehicular access would result in a loss of hedgerow, which I saw during my site visit was in a reasonable condition.

15. The appellant highlights that the majority of the site is closely cut grass that is understood to have been used for growing hay and keeping animals. The appellant also asserts that the site does not offer a suitable habitat for birds, bats, great crested news, or other protected species. However no substantive evidence has been provided to underpin this assertion, including the suitability of the biodiversity measures proposed.

16. The appellant sets out that only a section of the hedgerow would be removed, outside of the bird nesting season and that the site is not subject to any biodiversity designations. It is also put to me that the Council have no evidence to suggest that the proposal would have an adverse impact on

[1] APP/J1860/W/17/3176459, APP/J1860/W/17/3172760 and APP/H1840/W/16/3152337
[2] APP/J1860/W/17/3170968, APP/J1860/W/17/3191631 and APP/J1860/W/18/3192959

biodiversity and it is queried whether permission would be required to remove a length of the existing hedgerow outside of the bird nesting season. However, the vehicular access forms part of the proposal before me and I must determine the proposal as submitted, including on the basis of the evidence before me. Based on the limited evidence provided, I cannot conclude with certainty that the proposal has demonstrated that it would not have a harmful effect on biodiversity.

17. Therefore sufficient information has not been submitted in respect of biodiversity. Consequently the proposal would not meet the requirements of SWDP Policy 22 and paragraphs 170b) and 175a of the Framework and Circular 06/05 insofar as they relate to this matter. Combined these policies seek to ensure that development recognises the wider benefits from natural capital and ecosystem services, does not significantly harm biodiversity, is designed to enhance biodiversity and does not compromise the favourable conservation status of European or nationally protected species.

Other Matters

18. A number of benefits are associated with the proposal which include its contribution towards housing supply. In addition, future occupants would support and have access to services, transport connections and facilities, with a pedestrian connection point proposed to the allocated site to the north. The proposal would also support local construction related employment and a small local housebuilder. In addition, renewable energy measures could be secured at the reserved matters stage and three of the four dwellings have secured buyers looking to undertake a self-build project.

19. The proposal would also be a small site and thus would benefit from support in the Framework. Also, paragraph 61 of the Framework sets out that housing needed for different community groups such as people wishing to commission or build their own homes should be assessed and reflected in planning policy. Furthermore, as part of the SWDP review, I understand that the Council are due to undertake a call for sites exercise which the appellant considers highlights the ongoing demand for housing. The appellant has submitted the site as part of this exercise.

20. The Council have also raised no concern regarding the effect of the proposal on neighbouring living conditions, flood risk and highway safety. However an absence of harm in these respects can only be considered as neutral factors in the planning balance. In addition, the Council's ability to demonstrate a five year supply of housing land is not disputed by the appellant. As such, the policies most important for determining the application are not out of date and thus attract full weight.

21. In this case the above identified considerations would be outweighed by the development plan conflict, harm to local character and appearance and biodiversity identified above. On this basis the proposal would not represent sustainable development as defined and sought by the Framework.

Conclusion

22. For the reasons given above, I conclude that the appeal should be dismissed.

B Bowker INSPECTOR